THE NATIONAL ARCHIVES OF THE UNITED STATES 1934 LITTERA SCRIPTA MANET

FEDERAL REGISTER

VOLUME 15 NUMBER 212

Washington, Wednesday, November 1, 1950

TITLE 3—THE PRESIDENT

PROCLAMATION 2910

ARMISTICE DAY, 1950

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, on November 11, 1918, an armistice was signed in the Forest of Compiègne, ending hostilities in World War I and giving hope to mankind that forces of aggression would be permanently suppressed; and

WHEREAS a harrowing second world conflict has created in the hearts and minds of men a firm determination to make a lasting peace; and

WHEREAS, although the peoples of the world are again saddened by strife and bloodshed, our faith has grown in the ultimate fulfillment, through international effort, of the promise for which our heroes fought and died; and

WHEREAS the Congress, by a concurrent resolution of June 4, 1926 (44 Stat. 1982), requested the President to issue a proclamation calling for the observance of November 11 as the anniversary of the armistice of 1918, and by an act approved May 13, 1938 (52 Stat. 351), declared that the anniversary should thenceforth be a legal holiday dedicated to the cause of world peace, and should be known as Armistice Day:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby call upon all our people to observe Saturday, November 11, 1950, as Armistice Day by paying solemn tribute to our fellow countrymen who fought on foreign soil for liberty, and by praying for divine help in the achievement of peace on earth; and I direct that the flag of the United States be flown from all Government buildings on that date in recognition of past and present efforts and sacrifice toward the end that international hostilities may be ended forever.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 27th day of October in the year of our Lord nineteen hundred and [SEAL] fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Secretary of State.

[F. R. Doc. 50-9728; Filed, Oct. 30, 1950; 5:06 p. m.]

EXECUTIVE ORDER 10178

RESERVING CERTAIN REAL AND PERSONAL PROPERTY IN GUAM FOR THE USE OF THE UNITED STATES

WHEREAS section 28 of the Organic Act of Guam, approved August 1, 1950 (Public Law 630, 81st Congress), reads:

"(a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of the civil affairs of the inhabitants of Guam, including automotive and other equipment, tools and machinery, water and sewerage facilities, bus lines and other utilities, hospitals, schools, and other buildings, shall be transferred to the government of Guam within ninety days after the date of enactment of this Act.

"(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act, is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts by this Act or subsequent Act of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

"(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof, is transferred to the administrative supervision of the head of the department or agency designated by the President

(Continued on next page)

CONTENTS

THE PRESIDENT

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

under section 3 of this Act, except as the President may from time to time otherwise prescribe: *Provided*, That the head of such department or agency shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real and personal, of the United States under his administrative supervision in Guam not needed for public purposes."

WHEREAS certain hereinafter-described real and personal property of the United States in Guam is required for the respective uses of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Coast Guard, and it has been mutually agreed that the Department of the Navy shall act on behalf of the Department of the Army, the Department of the Air Force, and the Coast Guard with respect to their requirements as to such property;

WHEREAS certain other hereinafter-described real property of the United States in Guam has been selected by the Secretary of the Navy for transfer or sale pursuant to the act of November 15, 1945, 59 Stat. 584, to persons in replacement of lands acquired for military or naval purposes in Guam, and such property should remain available for disposition by the Secretary of the Interior in his discretion under section 28 (c) of the said Organic Act of Guam; and

WHEREAS certain other hereinafter-described personal property of the United States in Guam should remain available for the respective needs of the Department of the Army, the Department of the Navy, the Department of the Air Force, the Coast Guard, and other agencies of the United States:

NOW, THEREFORE, by virtue of the authority vested in me by the said section 28 of the Organic Act of Guam, and as President of the United States, it is ordered as follows:

1. The following-described real and personal property of the United States in Guam is hereby reserved to the United States and placed under the control and jurisdiction of the Secretary of the Navy: *Provided*, That the Secretary of the Navy shall transfer such portions of such property to the Department of the Army, the Department of the Air Force, and the Coast Guard as may be required for their respective purposes:

(a) All of that real property in Guam situated within the perimeter areas defined in the following-designated condemnation proceedings in the Superior Court of Guam, being the same property quitclaimed by the Naval Government of Guam to the United States of America by deed dated July 31, 1950, and filed for record with the Land Registrar of Guam on August 4, 1950 (Presentation No. 22063):

Condemnation proceedings Civil No.	Perimeter area	Facility
	Acres	
2-48	4,566.757	North Field.
5-48	9.372	Mt. Santa Rosa Water Reservoir and Supply Lines.
6-48	5.990	Mt. Santa Rosa-Marbo Water Lines.
7-48	5.960	Tumon Maui Well Site.
2-49	4,803.000	Naval Ammunition Depot.
3-49	44.651	Primary Transmission Line.
4-49	12.169	Mt. Santa Rosa-Marbo Water Line Easement.
5-49	6,332.000	Apra Harbor Reservation.
2-50	6.450	Aceorp Tunnel.
3-50	35.391	Camp Dealy.
4-50	6.637	Tumon Bay Recreation Area Utility Lines.
5-50	24.914	Agana Springs.
6-50	41.360	Asan Point Tank Farm.
7-50	85.032	Asan Point Housing.
8-50	137.393	Medical Center.
9-50	45.630	Agafo Gumas.
10-50	4,798.682	Naval Communication Station.
11-50	11.726	Nimitz Beach.
12-50	800.443	Command Center.
13-50	4,901.100	Tarague Natural Wells.
14-50	5.945	Agana Diesel Electric Generating Plant.
15-50	23.708	Mt. Santa Rosa Haul Road, Water Reservoir and Supply Lines, VHF Relay Station, Mt. Santa Rosa-Marbo Water Line.
16-50	4,562.107	Northwest Air Force Base.
18-50	60.480	Marbo Base Command Area—Sewage Disposal.
19-50	21.695	Loran Station, Cocos Island.
20-50	15.322	Av-Gas Tank Farm #12.
21-50	1,820.148	Proposed Boundary of NAS Agana, Housing Area #7.
22-50	37.519	C. A. A. Site (Area #90).
23-50	3.575	Tumon Maui Well (Water Tunnel).
24-50	49.277	Tumon Bay Recreation Area (Road and AV-Gas Fuel Line Parcel #1).
25-50	0.208	Utility Easement from Rt. #1 to Rt. #6 (Coontz Junction).
26-50	65.300	Tumon Bay Recreation Area (Area #78).
27-50	2,497.400	Marbo Base Command.
28-50	0.918	Mt. Tenjo VHF Station Site.
29-50	285.237	Sasa Valley Tank Farm (Area #26).
30-50	17.793	Sub Transmission System Piti Steam Plant to Command Center.
31-50	28.888	Route #1 (Marine Drive) (Portion).
32-50	94.000	Sub Transmission System (34 KV Line) Piti Steam Plant to Agana Diesel Plant and POL System Sasa Valley Tank Farm to NAS Agana.
33-50	953.000	Harmon Air Force Base.
34-50	2,922.000	Radio Barrigada.
35-50	25.000	AACS Radio Range (Area #30).
36-50	37.000	Water Line Apra Heights Reservoir to Fena Pump Station and Av-Gas Fuel System.
37-50	2,185.000	Fena River Reservoir.

(b) The road system and utilities systems described in the said deed between the Naval Government of Guam and the United States of America dated July 31, 1950.

(c) The following-described areas: Mount Lam Lam Light; Rear Range Light; Mount Aluton Light; Area Number 35 Culverts; Mount Santa Rosa Light; 36 acres of Camp Witek; Adelup Reservoir; Tripartite Seismograph Station Site, Land Unit M, Section 2, Land Square 20; the Power Sub-station located on Lot 266, Municipality of Agat adjacent to Erskine Drive, City of Agat.

(d) Lots 2285-5 and 2306-1 in Barrigada.

(e) All personal property relating to or used in connection with any of the above-described real property.

2. The following-described real property of the United States in Guam is hereby reserved to the United States and transferred to the administrative supervision of the Secretary of the Interior, and shall be available for disposition by the Secretary of the Interior in his discretion under section 28 (c) of the said Organic Act of Guam:

All of those lands which have been selected by the Secretary of the Navy for transfer or sale pursuant to the act of November 15, 1945, 59 Stat. 584, to persons in replacement of lands acquired for military or naval purposes in Guam, a list and description of such lands being on file in the Department of the Navy.

3. In addition to the personal property described in paragraph 1 (e) hereof, there is hereby reserved to the United States all personal property of the United States in Guam, except that which is transferred to the government of Guam by or pursuant to section 28 (a) of the Organic Act of Guam, which on the date of this order is in the custody or control of the Department of the Army, the Department of the Navy, the Department of the Air Force, the Coast Guard, or any other department or agency of the United States; and all such personal property shall remain in the custody and control of the department or agency having custody and control thereof on the date of this order.

HARRY S. TRUMAN

THE WHITE HOUSE,
October 30, 1950.

[F. R. Doc. 50-9732; Filed, Oct. 31, 1950; 11:11 a. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

ENTIRE EXECUTIVE CIVIL SERVICE

Effective upon publication in the FEDERAL REGISTER, paragraph (i) of § 6.101 is amended to read as follows:

§ 6.101 *Entire Executive Civil Service* * * *

(i) NC/PD. Positions on the Isthmus of Panama, except: Accountant, architect, architectural designer, bookkeeper, calculating machine operator, chemist, clerk (paying more than $150 in United States currency per month), dietitian, draftsman, employee counselor, medical technician, personnel aide, personnel assistant, pharmacist, physician, playground director, statistician, stenographer, storekeeper, surgeon, trained nurse, typist, harbor personnel of the Quartermaster Corps, Department of the Army, air traffic controller and air traffic communicator, Civil Aeronautics Administration, and Veterans' Administration Representative for the Panama Canal Zone with duty station at Balboa, Canal Zone.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR, 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] L. A. MOYER,
Executive Director.

[F. R. Doc. 50-9644; Filed, Oct. 31, 1950; 8:47 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

[Reg. W]

PART 222—CONSUMER CREDIT

INTERPRETATIONS

§ 222.113 *Loans for business purposes.* A loan to a doctor or dentist to purchase medical or dental equipment is a "loan for business purposes to a business enterprise" within the meaning of § 222.7 (b) if the doctor or dentist is engaged in performing services for various patients for individual fees. However, a doctor or dentist performing services only on a regular salary basis cannot be considered a "business enterprise" under § 222.7 (b).

§ 222.114 *Home improvement "materials and articles".* In response to an inquiry from a Federal Reserve Bank the Board has ruled that draperies or curtains are not listed articles under Group D of § 222.9.

(Sec. 5, 40 Stat. 415, as amended, Title VI, Pub. Law 774, 81st Cong.; 50 U. S. C. App. 5. E. O. 8843, Aug. 9, 1941, 6 F. R. 4035; 3 CFR, 1941 Supp.)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 50-9623; Filed, Oct. 31, 1950; 8:45 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 296]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 293]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CALIFORNIA, COLORADO, ILLINOIS, OHIO, WASHINGTON

Amendment 296 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and Amendment 293 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92), Said rent regulations are amended in the following respects.

1. Schedule A, Item 26a, is amended to describe the counties in the Defense-Rental Area as follows:

Alameda County, except the City of Hayward.

This decontrols the City of Hayward in Alameda County, California, a portion of the Alameda County, California, Defense-Rental Area.

2. Schedule A, Item 30, is amended to describe the counties in the Defense-Rental Area as follows:

Los Angeles County, except (1) Catalina Township, (2) the Cities of Arcadia, Alhambra, Bell, Beverly Hills, Burbank, Claremont, Compton, Covina, Culver City, El Monte, El Segundo, Gardena, Glendale, Hermosa Beach, Huntington Park, Inglewood, La Verne, Long Beach, Lynwood, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Pasadena, Pomona, Redondo Beach, San Fernando, Santa Monica, Sierre Madre, Signal Hill, South Gate, South Pasadena and Whittier, and (3) all unincorporated localities.

This decontrols all of Orange County, California, which was under rent control immediately prior to this amendment, a portion of the Los Angeles, California, Defense-Rental Area, based on the Housing Expediter's own initiative in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

3. Schedule A, Item 33, is amended to describe the counties in the Defense-Rental Area as follows:

Merced County; and Stanislaus County, except the Cities of Modesto, Oakdale, and Turlock.

This decontrols the City of Oakdale in Stanislaus County, California, a portion of the Modesto-Merced, California, Defense-Rental Area.

4. Schedule A, Item 34, is amended to describe the counties in the Defense-Rental Area as follows:

Contra Costa County, except the Cities of Brentwood and Walnut Creek; and Solano County.

This decontrols (1) the City of Napa in Napa County, California, a portion of the Richmond-Vellejo, California, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Napa County in the same Defense-Rental Area, based on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

5. Schedule A, Item 38, is amended to describe the counties in the Defense-Rental Area as follows:

San Francisco County; San Mateo County, except the Cities of Menlo Park and San Bruno and the Town of Atherton; Marin County, except the Cities of Belvedere and Sausalito and the Judicial Townships of Bolinas, Nicasio, Point Reyes, San Antonio, and Tomales; and Sonoma County, except (i) the City of Healdsburg, (ii) the Judicial Townships of Redwood and Sonoma (including the City of Sonoma) and (iii) that portion of Analy Judicial Township lying west of the Monte Rio-Valley Ford Highway and lying between Redwood Judicial Township on the north and the northern line of Marin County on the south and; (iv) the City of Santa Rosa.

This decontrols the Cities of Sausalito in Marin County and Healdsburg in Sonoma County, both in California, portions of the San Francisco Bay, California, Defense-Rental Area.

6. Schedule A, Item 43, is amended to describe the counties in the Defense-Rental Area as follows:

Arapahoe County, except the City of Englewood and the Town of Littleton; and Adams, Denver and Jefferson Counties.

This decontrols the City of Englewood in Arapahoe County, Colorado, a portion of the Denver, Colorado, Defense-Rental Area.

7. Schedule A, Item 92, is amended to describe the counties in the Defense-Rental Area as follows:

Boone County, except the Village of Capron and all unincorporated localities; and Winnebago County, except the Cities of Loves Park, Rockford and South Beloit, the Village of Pecatonica, and all unincorporated localities.

DeKalb County, except all unincorporated localities.

This decontrols the City of South Beloit in Winnebago County, Illinois, a portion of the Rockford, Illinois, Defense-Rental Area.

8. Schedule A, Item 240, is amended to describe the counties in the Defense-Rental Area as follows:

Lucas County, except the Village of Ottawa Hills; and Wood County, except the Village of Grand Rapids and the Townships of Bloom, Henry, Jackson, Liberty, Milton, Montgomery, Perry and Portage.

This decontrols the Village of Grand Rapids in Wood County, Ohio, a portion of the Toledo, Ohio, Defense-Rental Area.

9. Schedule A, Item 348, is amended to describe the counties in the Defense-Rental Area as follows:

Snohomish County, except the Cities of Edmonds and Snohomish and the Towns of East Stanwood, Marysville, Stanwood and Sultan.

Island County.

This decontrols the City of Edmonds in Snohomish County, Washington, a portion of the Everett, Washington, Defense-Rental Area.

All decontrols effected by this amendment, except Items 2 and 4 thereof, are based on resolutions submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

This amendment shall be effective October 28, 1950.

Issued this 27th day of October 1950.

ED DUPREE,
Acting Housing Expediter.

[F. R. Doc. 50-9632; Filed, Oct. 31, 1950; 8:46 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 34—SOUTHEASTERN REGION

KENTUCKY WOODLANDS NATIONAL WILDLIFE REFUGE, KY.; HUNTING

Basis and purpose. On the basis of observations and reports by field representatives of the Fish and Wildlife Service and of the Kentucky Division of Fish and Game, it has been determined that there is an excess population of raccoons and opossums on the Kentucky Woodlands National Wildlife Refuge, the removal of which, in keeping with the wildlife management objectives for the Refuge, can best be accomplished by opening the Refuge to public hunting.

Investigations have also indicated the desirability of reducing the population of fallow deer (an introduced species) on this Refuge. Bow and arrow hunting, an increasingly popular sport, should provide the means for removing the necessary animals with minimum disturbance and furnish a type of recreation suited to this Refuge.

Inasmuch as the following regulations are relaxations of the existing prohibition against hunting on the Refuge, publication prior to the effective date thereof is not required. (60 Stat. 237, 5 U. S. C. 1001 et seq.)

Effective immediately upon publication in the FEDERAL REGISTER, the following sections are added:

§ 34.60 *Hunting permitted.* Until further notice, raccoons and opossums may be taken on that part of the Kentucky Woodlands National Wildlife Refuge, Kentucky, lying west of the dividing Ridge Road north of U. S. Highway No. 68 and south of the Moss Creek Ferry Road, and until further notice, fallow deer of either sex, red and gray foxes, bobcats, woodchucks, squirrels, opossums, skunks, crows, and carp may be taken by means of bow and arrow within the fallow deer range on the Kentucky Woodlands National Wildlife Refuge, as determined annually by the officer in charge of the Refuge and designated by posting. All such hunting shall be in accordance with the State laws and regulations, at such times, and under such special regulations and conditions as may be prescribed by the officer in charge of the Refuge, copies of which shall be posted on the Refuge and available at Refuge headquarters. All hunting shall also be in accordance with the provisions of §§ 34.58, 34.59, and 34.61.

§ 34.61 *Dogs.* Each person hunting raccoons and opossums on the Refuge will be permitted to take his hunting dogs upon such areas: *Provided,* That he shall first have secured a permit from the Refuge Manager specifying the number of dogs that will be used, the area in which the hunting may be conducted, and the period during which such dogs will be allowed on the Refuge. Dogs used for raccoon and opossum hunting on the Refuge shall be at all times under the general control of their owner or handler and shall not be permitted to run at large on the public hunting ground or elsewhere on the Refuge.

Each person engaged in bow and arrow hunting on the Refuge may be permitted to take one hunting dog on the Refuge for the purpose of trailing wounded deer; *Provided,* That such dogs shall at all times be on leash and not permitted to range at will on the Refuge.

(Sec. 6, 45 Stat. 1223, as amended; 16 U. S. C. 715e)

Dated: October 25, 1950.

O. H. JOHNSON,
Acting Director.

[F. R. Doc. 50-9622; Filed, Oct. 31, 1950; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 911]

[Docket No. AO-215]

HANDLING OF MILK IN SUBURBAN ST. LOUIS, MO., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order regulating the handling of milk in the Suburban St. Louis, Missouri, marketing area.

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 20th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and the proposed order were formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a petition filed by the Sanitary Milk Producers, St. Louis, Missouri. Additional proposals for consideration were submitted by Square Deal Milk Producers Association of Illinois, certain handlers in the proposed Suburban St. Louis marketing area, and by the Dairy Branch. The public hearing was held in East St. Louis, Illinois, on February 23 and 24 and February 27 to March 3, 1950, all dates inclusive, pursuant to a notice duly published in the FEDERAL REGISTER (15 F. R. 327).

The material issues considered at the hearing were concerned with the following:

A. Whether the handling of milk in the Suburban St. Louis, Missouri, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products;

B. Whether marketing conditions justify the issuance of a marketing agreement or order regulating the handling of milk in the Suburban St. Louis, Missouri, marketing area; and

C. If issuance of such an agreement or order is justified, what its provisions should be.

The evidence on this last issue involved the following:

(1) The extent of the marketing area;

(2) The definition of "producer," "handler," "pool plant," "other source milk," and other terms;

(3) The classification and allocation of milk;

(4) The determination and level of class prices;

(5) Payments to producers;

(6) Administrative provisions necessary to effectuate the purposes of the order.

Findings and conclusions. Upon the basis of the evidence adduced at the hearing, it is hereby found and concluded that:

(A) The handling of milk produced for the Suburban St. Louis, Missouri, marketing area is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and its products.

The Suburban St. Louis marketing area lies adjacent to the St. Louis, Missouri, marketing area, the handling of milk in which is regulated under Order No. 3. Suburban St. Louis handlers purchase their milk in nearby Illinois counties in competition with St. Louis (Order No. 3) handlers. This competition effects interstate commerce in milk since St. Louis handlers also regularly obtain supplies from producers in Illinois as well as in Missouri and Arkansas and they dispose of such milk in fluid uses in the City of St. Louis and in surrounding areas both in Missouri and Illinois. Interstate commerce is also manifested in the fact that certain distributors who would be handlers under a suburban order and who are located in Illinois bottle milk which is disposed of to local distributors in Jefferson County, Missouri. Other distributors located in Alton, Illinois, which would be included in the suburban marketing area, bottle milk which is sold in grocery stores in the various counties in Missouri. In addition suburban handlers located in Illinois sell sweet cream to dealers in St. Louis, Missouri, who in turn dispose of such cream to local distributors operating in Jefferson County, Missouri, and to other outlets for ice cream uses. Sweet cream and bulk condensed milk derived from the milk purchased in competition with supplies for fluid uses in the suburban area are disposed of in interstate commerce through outlets in Tennessee and Florida. Butter made from locally produced milk, including surplus milk of local handlers,

is sold on the national market both within and without the State of Illinois and butter and nonfat dry milk solids from local manufacturing plants is purchased by the Government under its price support operations.

From the foregoing, it is clear that a substantial volume of the milk in the Suburban St. Louis market is moved physically in interstate commerce in the form of milk, cream, and manufactured dairy products and that the handling of milk in the market directly burdens, obstructs, and affects interstate commerce in milk and its products.

(B) Marketing conditions in the Suburban St. Louis, Missouri, market justify the issuance of a marketing agreement and order.

Producers on the Suburban St. Louis market are not being paid for their milk on a use basis and there is no uniform pricing plan being followed by the several handlers with the result that producer prices for milk of similar quality and use vary substantially as among the several handlers in the market.

The recent sale of the retail routes of one of the larger distributors in Alton, Illinois, resulted in the cutting off of every producer who had been shipping to this dairy for a period of years and in the displacement of the milk of these producers, who had been producing under a quality program, with milk from a condensery purchased at condensery prices. This tended to depress producer prices and the orderly marketing of producer milk was disrupted. Under the circumstances of this market cooperative associations have been unable to bargain effectively for a fair use value for the milk of their members. Consequently, there is much unrest among producers and much shifting of producers among handlers where this is possible.

Adequate statistics and market information with reference to prices paid for milk, plant receipts, and plant utilization of milk are necessary to enable producers to bargain effectively with handlers in the sale of their milk. No such information is available at this time; however, the issuance of an order would provide the medium for developing the market information necessary for efficient marketing of producer milk and would enable producers to participate more actively and effectively in improving marketing conditions.

Handlers contend that there is no need for an order, arguing that the market is already adequately supplied with milk, an indication that present prices are satisfactory. Producers do not dispute that there are sufficient milk supplies at the present time but contend that they should share in the use value of the milk. The issuance of a marketing order will provide a more realistic pricing structure which is needed to return to producers a fair value for their milk and guarantee adequate supplies in the future.

(C) From the evidence it is concluded that the proposed marketing agreement and order which are hereinafter set forth, and all of the terms and conditions thereof, meet the needs of the Suburban St. Louis, Missouri, market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the several provisions of the proposed marketing agreement and order:

(1) *Extent of the marketing area.* The marketing area should be defined to include all of the territory lying within the Counties of Jersey, Madison, Monroe, Bond, Clinton (except the Townships of East Fork, Meridian, and Brookside), and St. Clair (except East St. Louis, Centerville, Canteen, and Stites Townships and Scott Air Force Base), and the Townships of Brighton, Bunker Hill, Dorchester, Mt. Olive, and Staunton in Macoupin County, all in the State of Illinois.

Madison and St. Clair Counties represent the area of heaviest concentration of population and the principal area of competition between major handlers serving the area herein proposed. The inclusion of Jersey, Bond, and Monroe Counties and parts of Macoupin and Clinton Counties incorporates an area of secondary concentration of population which is primarily served by the major handlers operating in Madison and St. Clair Counties. The principal distributors serving Jersey and the southern tier of townships in Macoupin County are also major distributors in the Town of Alton and surrounding territory in Madison County. In the same manner the principal distributors serving Bond and Monroe Counties and the major portion of Clinton County are also major distributors in Belleville, Highland, Edwardville, and other towns in Madison and St. Clair Counties. Any further extension of the area would go beyond the area of normal competition among the handlers involved and would bring under the order additional handlers doing the bulk of their business beyond the area boundaries.

It was proposed that the marketing area include the territory within St. Charles and Jefferson Counties, Missouri, and that part of St. Louis County, Missouri, not presently included under Order No. 3. The record fails to establish the Missouri area as a part of the area of normal competition of Illinois handlers and there was no indication that Missouri handlers, other than Order No. 3 handlers, compete for sales in the Illinois area. Accordingly, it is concluded that the Missouri area should not be included.

(2) *Definitions.* A definition of "pool plant" is necessary to facilitate the designation of the type of processor or distributor to be subject to regulation. It is intended that any plant which is a regular supplier of Class I milk should be included as a pool plant. Accordingly, a "pool plant" should be designated as a plant, other than that of a producer-handler, which is used in the processing and packaging of milk disposed of within the delivery period as Class I milk in the marketing area, or a plant which receives milk which is regularly disposed of to a plant which distributes Class I milk in the marketing area.

In many instances local health authorities are relied upon to define the regular source of supply for the market. The designation of a pool plant under these circumstances is based upon the receipt of milk from dairy farms holding farm inspection permits issued by the local health authority. Plants handling only milk from other sources but which are permitted by the local health authority to supply Class I milk to the market on an emergency basis are not considered a regular source of supply and are not regulated under an order.

In the marketing area as herein proposed the health regulations cannot be used to define generally the regular source of supply for the market and it is necessary to devise other means of designating the type of plant operations which are to be regulated. It is concluded that all plants distributing Class I milk in the area and all other plants regularly supplying milk for Class I use in the area should be designated at pool plants. Accordingly, any plant distributing Class I milk in the marketing area during the delivery period is designated a pool plant. In addition, any plant which is used in the receipt of milk and from which milk is disposed of during the delivery period to such a distributing plant is designated as a pool plant. Provision is made for the pooling of a receiving plant during the delivery periods of February through August, even though such plant does not furnish milk to a distributing plant during this period, if the receiving plant had furnished milk to a distributing plant during each of the preceding delivery periods of September through January. This is necessary to permit stand-by plants to keep milk in the country during the flush production months and continue to share in the pool. For the delivery periods of February through August 1951, it is provided that a receiving plant shall be pooled if milk is disposed of from such plant to a distributing plant during each of the delivery periods from the effective date of any order through January 1951. This is in keeping with the principles discussed herein.

The term "producer" should be defined as any person, except a producer-handler, who produces milk which is received at a pool plant, or is diverted from a pool plant to any milk distributing or manufacturing plant. The definition of such term facilitates the designation of the milk which is to be subject to the pricing provisions of the order. Since the order applies to deliveries of whole milk by producers it is not intended that a person be considered a producer with reference to skim milk or butterfat which he delivers to a pool plant in the form of sweet or sour cream. In order to eliminate possible conflicts between this order and Order No. 3 regulating the handling of milk in the St. Louis, Missouri, marketing area a person should not qualify as a producer under both orders on the same milk. Accordingly, it is provided that a person defined as a producer under the provisions of Order No. 3 shall not be a producer for the same milk under the terms of this order.

Milk disposed of as fluid milk in the marketing area may be produced under rigid health inspection or may be ungraded milk which is not regulated by an ordnance of the state or any local health authority. Since separate pool-

ing and pricing are proposed for Grade A milk and ungraded milk produced and disposed of as fluid milk in the marketing area it is necessary that producers be differentiated in accordance with the health regulation under which such milk is produced. Producers are therefore defined as either "Grade A" or "Nongrade A."

The term "handler" should include a producer-handler and any person in his capacity as operator of a pool plant. A definition of "handler" is necessary in order to specify the types of processors and distributors subject to regulation. Milk diverted from a pool plant to a nonpool plant for the account of the handler is considered to have been received at the pool plant since producers of such milk would ordinarily be regular suppliers of the market and as such should be assured the market blend price for their milk. "Handler" should also include any cooperative association of producers which diverts producer milk for the account of such association. It was proposed that diversion by a cooperative association be limited to specified months of flush production but it was not shown that such a limitation would be in the best interest of orderly marketing. If this limitation were imposed handlers could be adversely affected and certain producers discriminated against on week-ends or holidays or at other times when unseasonable production during the restricted period might upset the supply-demand balance in the market because proprietary handlers are not in a position to accept milk from all producers under these conditions. The inclusion in the definition of a cooperative association, even though it does not operate a plant, will promote efficient utilization of producer milk in the highest available use class since such an arrangement will permit a cooperative association to divert milk for Class I use which might otherwise be used by proprietary handlers in Class II.

"Other source milk" should be defined to include all skim milk and butterfat from a producer-handler or from a source other than producers or other handlers. Nonfluid milk products received and disposed of in the same form however should be excepted. Since producer-handlers normally dispose of their milk during most of the year in Class I, and since sales of Class I by these handlers would not be pooled the pooling of surplus milk purchased by handlers from producer-handlers would result in a preferential market for producer-handlers as compared with regular producers. Milk purchased from producer-handlers should be treated therefore as other source milk and it would remain unpriced under this proposed order. Nonfluid milk products received and disposed of in the same form are not included as other source milk because they would not affect the classification of producer milk.

The terms "act," "person," "Secretary," "Department," "cooperative association," and "delivery period" are defined in order to facilitate the drafting of other provisions of the order. These terms are common to Federal milk marketing orders and no differences developed at the hearing regarding their definition.

(3) *Classification and allocation of milk.* The classification of milk should be as follows: Class I milk should include all skim milk and butterfat disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, milk drinks (both plain and flavored), cream (including sour cream), any mixture of cream and milk or skim milk (except bulk ice cream mix, eggnog, and reddi-wip, instant whip, super whip, and similar products), and all skim milk and butterfat not specifically accounted for as Class II milk. Class II milk should include all skim milk and butterfat used to produce any product other than those specified in Class I milk, disposed of for livestock feed, in actual plant shrinkage of skim milk and butterfat received in producer milk (but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively), and actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received.

The products to be classified as Class I are those normally associated with a fluid milk business, all being disposed of in fluid form in the marketing area through the same retail and wholesale channels as bottled fluid milk. Their physical characteristics, purposes, values, and uses are more nearly similar to those of fluid milk than to the products to be classified as Class II milk. Furthermore, these products are normally made from a higher quality of milk than that disposed of in manufactured products. Under the terms of the Belleville ordinance they are required to be made from Grade A milk.

The products to be classified in Class II are those which normally are competitively priced on a national market. It is necessary that a lower pricing be provided for milk so utilized in order to assure free movement of excess supplies into manufacturing channels without burdensome competitive disadvantages to affected handlers.

Handlers contended that the fluid products other than fluid milk, which are herein proposed to be classified as Class I, are disposed of in smaller volume and at higher handling costs than fluid milk and should carry a lower classification and pricing. They also proposed a lower pricing for fluid milk and fluid milk products sold outside of the marketing area. The pricing herein proposed recognizes the variation in the butterfat content of milk products and results in a lower pricing for those products with a lower butterfat content. A lower classification resulting in a lower price for fluid milk sold outside the marketing area is not justified. Milk disposed of by suburban handlers outside the marketing area is the same quality as that disposed of within the area and is subject to the same transportation costs in moving from the farm to the handler's plant. Out-of-area fluid sales represent a continuing and regular demand throughout the year and have no aspects of an outlet for a seasonal surplus of producer milk.

Handlers proposed a maximum 3 percent shrinkage allowance in the lowest use class. Shrinkage experience under Order No. 3 (which regulates handlers similarly situated) since 1945 indicates that in no year has shrinkage for St. Louis handlers amounted to as much as 2.5 percent and in one year, 1948, was substantially under 2 percent. Handlers conceded that a bottling operation should show a smaller shrinkage than a manufacturing operation. A maximum allowable shrinkage of 2 percent on producer milk should be included in Class II. Any shrinkage in excess of that amount should be classified as Class I. No limit is provided for shrinkage of other source milk allowed in Class II since such milk is deducted from the lowest use class under the allocation provisions.

It is not administratively feasible to segregate the actual plant shrinkage on producer milk from shrinkage on other source milk in the same plant. Consequently, in such cases shrinkage of skim milk and butterfat, respectively, allocated to Grade A producer milk, Nongrade A producer milk, or other source milk should be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources, to their totals.

In establishing the classification of milk the responsibility should be placed upon the handler who first receives milk from producers to account for all skim milk and butterfat received at his pool plant and to prove to the market administrator that such skim milk and butterfat should be classified as other than Class I. The handler who first receives milk from producers is responsible for reporting the proper utilization of such milk and making full payment for it. He must therefore maintain records to furnish adequate proof of utilization to the market administrator. For the protection of both producers and handlers, skim milk or butterfat classified in one class should be reclassified if used or reused by such handler, or by another handler in another class.

Provisions should be included in the order covering the classification of skim milk and butterfat which is transferred from a pool plant to another pool plant or to a nonpool plant. In the case of transfers between pool plants classification should be on the basis of written agreement between the affected handlers to the extent of utilization in the agreed use in the transferee plant. This provision affords suitable flexibility in the pricing, classification, and accounting for milk transferred. It does not affect producer returns because all of the milk is accounted for in the pool computation in any event. In order to assure adequate protection of producers in the classification of their milk it should be provided that in case other source milk is received in either or both plants the classification of milk in each plant shall be made in such a manner as will return the higher class utilization to producer milk.

The allocation provisions as hereinafter proposed give priority to Grade A producer milk over Nongrade A producer milk. Accordingly, it should be further provided that when Grade A producer

milk is received at either plant involved in an interhandler transfer the milk so disposed of shall be classified at both plants to return the higher class utilization to Grade A producer milk.

Transfers to a producer-handler should be classified as Class I milk. Producer-handlers ordinarily carry on only fluid operations; hence any milk which they might purchase from a handler would normally be for such use and it is unnecessary to provide for the classification of such a transfer in a lower class use.

Transfers to a nonpool plant, except in the case of transfers of milk or skim milk to a plant located 110 miles or more airline distance from the City Hall at St. Louis, should be classified on the basis of written agreement in the same manner as outlined for interhandler transfers. This would facilitate the movement of skim milk and butterfat in excess of Class I needs and at the same time protect producers in the classification of milk by requiring adequate records to prove to the market administrator that an equivalent amount of skim milk and butterfat was actually used in the claimed class.

Transfers of milk or skim milk to a nonpool plant located 110 miles or more airline distance from the City Hall in St. Louis should be classified as Class I. Ordinarily such transfers for distances of as much as 110 miles cannot economically be made for manufacturing uses. The limitation on distance in which such transfers are permitted as other than Class I will simplify the job of the market administrator in the classification of milk, save considerable expense which would otherwise be necessary to check utilization in distant plants, and affords reasonable protection for producers in the classification of their milk.

The allocation provisions should provide that other source milk, which is unpriced, be allocated to the lowest use in the handler's plant. This is done to prevent other source milk from displacing the milk of producers which constitutes the regular supply of the market. In the allocation of producer milk, Grade A milk should be assigned to the highest utilization. A handler customarily utilizes the highest quality milk in his plant for fluid purposes and hence the assignment of this milk to the highest class is consistent with the preferential use given to this milk by handlers.

Certain handlers proposed that Class II utilization in an amount not to exceed 5 percent of producer receipts be allocated to producer milk contending that handlers should not be penalized for the use of other source milk necessitated by day-to-day fluctuations in production and in Class I sales. While such a provision is contained in the St. Louis order the need for such a provision was not established in this record. An ample supply of producer milk is available in the Suburban St. Louis market. Any temporary shortage would be the result of an erroneous decision on the part of handlers as to the quantity of regular milk which they procure. Producers should not be required to share the cost of importing other source milk for an individual handler, to alleviate a shortage resulting from his own erroneous decision.

(4) *Class prices.* Class I milk prices should be determined by using the St. Louis (Order No. 3) Class I price as a base with adjustments to reflect quality differences. Class II milk prices should be based on the average of prices paid for milk by 23 specified condenseries and manufacturing plants.

Both producers and handlers proposed that the Suburban St. Louis Class I price be tied to the St. Louis price in recognition of the direct competition between the two markets for milk supplies and for retail sales.

Illinois Grade A milk, while produced under the Illinois Grade A milk law, does not meet the quality requirements of St. Louis or the East Side Health District for Grade A milk. In recognition of the lesser demand made on producers it is concluded that Grade A milk under this order should be priced 15 cents under the St. Louis order price. A smaller investment is necessary to provide facilities to meet the requirements for the production of milk qualified for the Suburban market and lesser day-to-day costs are incurred in the care of cows and equipment and in the production of milk than under the St. Louis and East Side Health District ordinances. These differences in investment and operating costs should be reflected in lower differentials for Class I milk under this order as compared to the St. Louis order.

Nongrade A milk should be priced 40 cents under the Grade A price. This pricing results in a Class I price for Nongrade A milk which varies seasonally from 35 cents over the St. Louis basic formula price during the months of April, May, and June to 80 cents over such price during the months of July through December. These differentials are designed to cover the extra costs of producing the quality of milk required by handlers for bottling purposes and the additional transportation costs involved in delivering milk to the fluid milk market, to promote a more uniform seasonal production pattern, and to assure an adequate supply of milk over a period of time.

The price for Class II milk should be the higher of (1) the average price paid for milk of 3.5 percent butterfat content at 23 plants which utilize milk for manufacturing purposes (particularly for manufacturing evaporated milk), or (2) a price computed from the prices of 92-score butter at Chicago and the prices of nonfat dry milk solids f. o. b. certain manufacturing plants in the Chicago area.

The price resulting from this formula will be the same as that provided for under the order regulating the handling of milk in the St. Louis marketing area. The St. Louis market obtains its supplies of milk from an area which encompasses the supply area for the Suburban marketing area. The disposition of surplus milk in much of the Illinois portion of the St. Louis supply area and in the supply area for the Suburban market is through the same manufacturing facilities and in the same uses. The prices for surplus milk under the St. Louis order and under the Suburban order should, therefore, be the same.

Producers proposed that the Class II price be the average price paid for milk at a small group of local condenseries and manufacturing plants, including a few of the 23 herein proposed. Handlers concurred in this proposal except that they suggested a price of 25 cents less than the price paid at the local condenseries, contending that the small operations of local handlers and transportation costs to manufacturing plants would necessitate a lower price. The prices paid by local condenseries have been substantially less than those paid at condenseries located in Wisconsin and Michigan and substantially less than the Class II price established by the St. Louis order. Since manufactured products compete on the national market and the Department of Agriculture is presently supporting milk prices through purchases of all offers of nonfat dry milk solids, butter, cheese, and evaporated milk at specified prices which should result in producer prices for ungraded manufacturing milk substantially in excess of the current local condensery price, it is concluded that the Class II prices need not be established on the basis of these local condenseries. The Class II price herein proposed is competitive with the surplus price under the St. Louis order and should move the surplus milk in the Suburban market while at the same time returning a reasonable price to producers for milk so utilized.

The price computed for each class on the basis of milk containing 3.5 percent butterfat should be adjusted to reflect the weighted average butterfat content of the several products classified in the respective classes. The Class I Grade A differential should be 1.25 times the price of 92-score butter at Chicago and the Class I Nongrade A differential should be 1.22 times the price of 92-score butter at Chicago. The Class II differential should be 1.20 times the price of 92-score butter at Chicago. These differentials appear to provide an appropriate division of the price between skim milk and butterfat and should encourage the maximum utilization of producer butterfat.

The pricing of Class I milk on the basis of the f. o. b. St. Louis price adjusted by a location allowance which varies according to the distance between St. Louis and the pool plant was supported by both producers and handlers and it would serve to maintain a direct relationship between prices under the St. Louis order and under the Suburban St. Louis order. The allowances established are the same as are used under Order No. 3

Producers proposed that handlers located outside of the area and doing less than 10 percent of their Class I business within the marketing area and handlers with less than 10 percent of their total business in Class I should be exempt from regulation, except that they would pay into the pool the difference between the Class I and the Class II prices on the volume of milk so utilized. However, there is insufficient evidence in the record to enable consideration of the adoption of such a provision.

(5) *Payments to producers.* The "market-wide" type of pool should be established in this order for the purpose of distributing among producers returns from the sale of their milk. Under the market-wide pooling arrangement all producers receive the same uniform price for their milk irrespective of the utilization made of such milk by the handler to whom they sell.

The alternative to the market-wide pool is the use of individual-handler pools. Under this system producers delivering to each handler receive a uniform price based on each handler's utilization of milk. Because different handlers utilize different proportions of their milk as Class I and Class II, the uniform prices of individual handlers would vary one from the other. A cooperative association representing the majority of producers in the market expressed its intent to become a handler when necessary to market the surplus milk of its members. To do so under an individual-handler pool would result in an unequal sharing of the market among producers and would not be conducive to orderly marketing. It is therefore concluded that a market-wide pool is necessary to distribute the returns from the sale of milk equally among producers and to create orderly marketing of producer milk.

Because of the different grades of milk distributed in the marketing area it will be necessary to maintain two separate pools—one for Grade A milk and one for Nongrade A milk.

In the computation of the value of producer milk, provision should be made for the inclusion of the value of milk classified in excess of reported receipts from producers, other handlers, and other sources. This provision is found in other milk orders and it is necessary to cover discrepancies between the reported and actual weights and tests of milk received from producers. In case a handler having excess skim milk or butterfat has received both Grade A and Nongrade A milk during a delivery period it should be provided that such excess shall be ratably apportioned between the two grades of milk.

In the event that a handler has received other source milk allocated to Class I and which is not priced under another Federal marketing agreement or order, an amount should be added to the value of the lowest grade of producer milk received by such handler computed as follows: Multiply the quantity of such other source milk by the difference between the applicable prices for Class I and Class II milk. As previously indicated, all sources of milk regularly used for Class I will be included in the pool. The pool plant definition affords opportunity to any handler to develop an adequate supply of producer milk for his Class I needs. There should be no reason for an insufficient supply of producer milk under such circumstances. If any handler elects to use other source milk in preference to utilizing an available source of producer milk, local producers should not be penalized. Accordingly, it is provided that such handler pay into the pool, for distribution among regular producers, the difference between the Class I and the Class II prices on other source milk so utilized. Such a provision gives assurance to both producers and handlers that all milk utilized for fluid purposes is purchased on a use basis at minimum order prices. Other source milk priced under another marketing order is exempt because such milk would be priced on a use basis commensurate with its value as determined under the other order.

Provision should be made for the adjustment, to reflect the actual test of the milk received from a producer and the location of the pool plant where such milk is received, in the applicable uniform price payable to producers. The producer butterfat differential and the location allowances, both of which apply to all producer milk received irrespective of use, should be the same as presently provided under Order No. 3; thus maintaining the direct relationship to St. Louis prices established for the individual class prices. The producer butterfat differential and the location allowances are merely means of prorating returns to producers and do not affect handler costs for milk.

Payment should be made to producers on a monthly basis on the 15th day after the close of the delivery period. This is the usual method of settlement currently employed by handlers in the area. All dates covering reports of handlers, computation and announcement of uniform prices, and payments to and out of the producer-settlement funds are set in appropriate relation to the payment date. All payments made directly to producers or an association of producers, or through the producer-settlement fund, should be adjusted for errors made in such payment for preceding delivery periods.

The market administrator in making payments to any handler from the producer-settlement fund should offset such payments by the amount of payment due from such handler. Without this provision, the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing fraudulent reports or who owes money to the producer-settlement fund but who is financially unable to make full payment of all of his debts.

(6) Certain other provisions should be adopted to enable proper and efficient administration of the order.

(a) *Administrative assessment.* Each handler should be required to pay to the market administrator, as his pro rata share of the cost of administration of the order, 4 cents per hundredweight, or such lesser sum as the Secretary may from time to time prescribe, on all receipts of producer milk at a pool plant.

Both handlers and producers recognize that the market administrator should have the necessary funds to enable him to administer properly the terms of the order and the act provides that the administration of the order be financed through assessment against handlers. In view of the anticipated volume of milk on which the rate would apply it is concluded that a maximum rate of 4 cents per hundredweight is necessary at this time to guarantee sufficient administrative funds. In the event at a later date a lesser amount proves to be sufficient for proper admiinstration, provision is made to enable the Secretary to reduce the assessment accordingly.

(b) *Deductions for marketing services.* Provision should be made for the dissemination of market information to producers and for the verification of weights, sampling, and testing of milk received from producers for whom such services are not being rendered by a qualified cooperative association and a reasonable charge assessed in payment thereof. This provision is specifically authorized by the act. Accordingly, it is concluded that 6 cents per hundredweight, or such lesser rate as the Secretary may determine, should be deducted by handlers from the payment to producers and turned over to the market administrator to finance such services. This rate was proposed by producer interests who have had experience in this market with check sampling, weighing, and testing programs. In the event any qualified cooperative association of producers is determined to be performing such services for its members, handlers should be required to pay to the cooperative association such deductions as are authorized by the members of the association. Handlers proposed in connection with the marketing service provision that in the case of two qualified cooperative associations, each having a membership contract with a particular producer, the market administrator be required to determine to which association such deduction should be paid. Such a proposal is not feasible since there is nothing contained in the marketing agreement act to preclude a producer from holding membership in more than one cooperative association, if he so desires, and it is not intended that under the marketing agreement and order herein proposed he should be so precluded. The order merely provides that the handler deduct and pay to any qualified cooperative association whatever deduction is authorized by the members of the association.

(c) *Other administrative provisions.* The other provisions of the order are of a general administrative nature which are common to all Federal milk orders, and incidental to the other provisions of the order, and are necessary for proper and efficient order administration. They should provide for the selection of the market administrator, define his powers and duties, prescribe the information to be reported by handlers each month and the length of time that records must be retained. A plan for liquidation of the order in the event of its suspension or termination should also be provided.

Producer-handlers should be exempt from the regulatory provisions of the order except that they should be required to file reports as requested by the market administrator. Since a producer-handler may change his status from time to time it is necessary that the market administrator have authority to require such reports as will enable him to verify his current status as a producer-handler and to supplement other market information.

A pool plant which is subject to the regulatory provisions of another milk marketing agreement or order issued pursuant to the act and which the Secretary determines disposes of a greater volume of its Class I milk in such other marketing area than in this marketing area should be partially exempt from the provisions of this order. It would be impractical to attempt regulation of a handler under two separate orders with respect to the same milk. Accordingly, it should be provided that if a pool plant disposes of a greater volume of its Class I milk in a marketing area regulated by another Federal marketing order than is disposed of in this marketing area such plant shall be exempt from the reporting, pricing, payment, administrative assessment, and marketing service provisions of this order except that the operator of such plant shall make such reports with respect to receipts and utilization of milk as the market administrator may require.

The order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time which obligations under the order shall terminate. The proposal made in this regard is identical with the general amendment made to all orders in operation on July 30, 1947, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444), covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Proposed findings and conclusions. Briefs were filed on behalf of Sanitary Milk Producers, Square Deal Milk Producers of Illinois, Cooperative Milk Producers of Missouri, and the majority of the handlers who would be regulated. The briefs contained proposed findings of fact, conclusions, and arguments with respect to the proposals discussed at the the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order.

DEFINITIONS

§ 911.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 911.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties pursuant to the act of the Secretary of Agriculture.

§ 911.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified herein.

§ 911.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 911.5 *Suburban St. Louis marketing area.* "Suburban St. Louis marketing area," hereinafter called the "marketing area," means all of the territory within Jersey, Madison, Monroe, and Bond Counties; the Townships of Brighton, Bunker Hill, Dorchester, Mt. Olive, and Staunton in Macoupin County; Clinton County, except the Townships of East Fork, Meridian, and Brookside; and St. Clair County, except the Townships of East St. Louis, Centerville, Canteen, and Stites, and the Scott Air Force Base, all in the State of Illinois.

§ 911.6 *Delivery period.* "Delivery period" means a calendar month, or the portion thereof during which this order is in effect.

§ 911.7 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and to have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 911.8 *Pool plant.* "Pool plant" means:

(a) Any plant which is used in the processing and packaging of milk all or a portion of which is disposed of from such plant on wholesale or retail routes (including plant stores or through vendors) within the delivery period as Class I milk in the marketing area, except the plant of a producer-handler and any plant from which Class I milk is so disposed of and at which the only milk received is from producers as defined under Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area; or

(b) Any plant which is used in the receipt of milk and from which milk in bulk is disposed of during any delivery period to a plant described in paragraph (a) of this section: *Provided,* That this definition shall include during the delivery periods of February through August any plant which was used in the receipt of milk and from which milk in bulk was disposed of to a plant described under paragraph (a) of this section during each of the immediately preceding delivery periods of September through January: *And provided further,* That this definition shall include during the delivery periods of February through August 1951 any plant which was used in the receipt of milk and from which milk in bulk was disposed of to a plant described in paragraph (a) of this section during each of the delivery periods from the effective date of this order through the delivery period of January 1951.

§ 911.9 *Nonpool plant.* "Nonpool plant" means any milk processing or distributing plant other than a pool plant.

§ 911.10 *Handler.* "Handler" means: (a) Any person in his capacity as operator of a pool plant; (b) a producer-handler; or (c) any cooperative association with respect to the milk of any producer which it causes to be diverted from a pool plant to a nonpool plant for the account of such association.

§ 911.11 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is:

(a) Received at a pool plant; or

(b) Diverted from a pool plant to any milk distributing or milk manufacturing plant: *Provided,* That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted: *And provided further,* That a person defined as a producer under the provisions of Order No. 3, regulating the handling of milk in the St. Louis, Missouri, marketing area, shall not be a producer for the same milk under the provisions of this order.

§ 911.12 *Grade A producer.* "Grade A producer" means a producer whose milk complies with the quality requirements of the Grade A milk ordinance of the applicable political subdivision of the State of Illinois or the Grade A milk and Grade A milk products laws of the State of Illinois and is permitted by the Illinois State Health Department to be sold under a Grade A label as fluid milk in the marketing area.

§ 911.13 *Nongrade A producer.* "Nongrade A producer" means a producer other than a Grade A producer.

§ 911.14 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form from a producer-handler or from a source other than producers or other handlers except any nonfluid milk product received and disposed of in the same form.

§ 911.15 *Producer-handler.* "Producer-handler" means any person who processes milk from his own farm production all or a portion of which is disposed of within the marketing area as Class I milk, and who receives no milk from producers.

MARKET ADMINISTRATOR

§ 911.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 911.21 *Powers.* The market administrator shall have the following powers with respect to this order:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 911.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 911.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 911.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each delivery period as follows:

(1) On or before the 5th day after the end of such delivery period, the minimum class prices and the butterfat differentials for each class computed pursuant to §§ 911.50 and 911.51; and

(2) On or before the 12th day after the end of such delivery period, the uniform prices computed pursuant to § 911.71 and the butterfat differential computed pursuant to § 911.81;

(i) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 15 days after the day upon which he is required to perform such acts, has not made: (1) Reports pursuant to §§ 911.30 and 911.31; or (2) payments pursuant to §§ 911.80 through 911.86;

(j) On or before the 12th day after the end of each delivery period, report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association, either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purpose of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class; and

(k) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 911.30 *Delivery period reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in all receipts at his pool plant(s) within such delivery period (1) of Grade A producer milk, (2) of Nongrade A producer milk, (3) from other handlers, and (4) of other source milk;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section; and

(c) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 911.31 *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may request:

(a) On or before the 20th day after the end of each delivery period his producer payroll for such delivery period, which shall show:

(1) The total pounds of milk received from each producer or cooperative association, with the average butterfat test thereof, and

(2) The net amount of such handler's payment to each producer or cooperative association, together with the price, deductions, and charges involved.

§ 911.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat;

(b) The weights, samples, and tests for butterfat and for other content of all milk, skim milk, cream, and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and end of each delivery period.

§ 911.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the books and records are no longer necessary in connection therewith.

CLASSIFICATION

§ 911.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the delivery period by a handler and which is required to be reported pursuant to § 911.30 shall be classified by the market administrator pursuant to the provisions of §§ 911.41 through 911.46.

§ 911.41 *Classes of utilization.* Subject to the conditions set forth in §§ 911.42 and 911.43 the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, milk drinks (whether plain or flavored), cream (including sour cream), any mixture of cream and milk, or skim milk (except bulk ice cream mix, eggnog, and reddi-whip, instant whip, super whip, and similar products), and all skim milk and butter-

fat not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat accounted for (1) as having been used or disposed of in any product other than those specified in paragraph (a) of this section; (2) as disposed of for livestock feed; (3) in actual plant shrinkage of skim milk and butterfat received in producer milk, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (4) in actual plant shrinkage of skim milk and butterfat in other source milk received: *Provided*, That if milk from more than one source (Grade A producer milk, Nongrade A producer milk, and other source milk) is received at a pool plant during the same delivery period the shrinkage of skim milk and butterfat, respectively, allocated to each source shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their totals.

§ 911.42 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be classified as Class I milk, unless the handler who first received such skim milk and butterfat proves to the market administrator that such skim milk or butterfat should be classified in Class II.

(b) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 911.43 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a pool plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, but in no event shall the amount classified in Class II exceed the total use in such class by the transferee-handler: *Provided*, That if either or both handlers have received other source milk, such milk so disposed of shall be classified at both plants so as to return the higher class utilization to producer milk: *And provided further*, That if either or both handlers have received Grade A producer milk, such milk so disposed of shall be classified at both plants so as to return the higher class utilization to Grade A producer milk.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a producer-handler.

(c) As Class I milk, except as provided in paragraph (d) of this section, if transferred or diverted in the form of milk, skim milk, or cream to a nonpool plant (other than that of a producer-handler) unless:

(1) The handler claims Class II on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the nonpool plant and the handler on or before the 7th day after the end of the delivery period within which such transfer occurred.

(2) The operator of the nonpool plant maintains books and records showing utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and

(3) Not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement: *Provided*, That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified as Class I milk.

(d) As Class I milk if transferred or diverted in the form of milk or skim milk to a nonpool plant located 110 miles or more airline distance from the City Hall in St. Louis, Missouri.

§ 911.44 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 911.45 *Allocation of skim milk and butterfat classified.* The pounds of skim milk and butterfat remaining in each class after making the following computation for each handler/for each delivery period shall be the pounds of skim milk and butterfat in such class allocated to producer milk received by such handler during such delivery period;

(a) Skim milk shall be allocated as follows:

(1) Subtract from the pounds of skim milk in each class the total pounds of skim milk received by such handler in milk from producers as defined under Order No. 3 regulating the handling of milk in the St. Louis, Missouri, marketing area and assigned to such class pursuant to the provisions of such order;

(2) Subtract from the total pounds of skim milk in Class II the plant shrinkage of skim milk in milk received from producers computed pursuant to § 911.41 (b) (3);

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk;

(4) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other handlers and assigned to such class pursuant to § 911.43 (a);

(5) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II.

(b) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in paragraph (a) of this section.

§ 911.46 *Allocation of producer milk classified.* For each delivery period the market administrator shall allocate the pounds of producer skim milk and butterfat in each class for each handler computed pursuant to § 911.45 to Grade A producer milk and to Nongrade A producer milk received by such handler during such delivery period.

(a) Skim milk shall be allocated as follows:

(1) Allocate to Class II skim milk the plant shrinkage of skim milk in Grade A producer milk computed pursuant to § 911.41 (b) (3);

(2) Allocate the remaining pounds of skim milk in Grade A producer milk in series beginning with Class I;

(3) The pounds of skim milk remaining in each class shall be the pounds of skim milk in such class allocated to Nongrade A producer milk received by such handler during such delivery period.

(b) Butterfat shall be allocated in the same manner prescribed for skim milk in paragraph (a) of this section.

(c) Add the pounds of skim milk and the pounds of butterfat allocated to Grade A producer milk in each class, respectively, and the pounds of skim milk and the pounds of butterfat allocated to Nongrade A producer milk in each class, respectively, as computed pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in Grade A producer milk and Nongrade A producer milk, respectively, in each class.

MINIMUM PRICES

§ 911.50 *Class prices.* Subject to the provisions of §§ 911.51 and 911.52 each handler shall pay producers at the time and in the manner set forth in §§ 911.80 through 911.86 not less than the following prices per hundredweight of milk:

(a) *Class I milk*—(1) *Grade A.* The price for Grade A Class I milk shall be the price computed by the market administrator in accordance with the Class I pricing provisions of Order No. 3, regulating the handling of milk in the St. Louis, Missouri, marketing area, less 15 cents.

(2) *Nongrade A.* The price for Nongrade A Class I milk shall be the price computed for Grade A milk pursuant to subparagraph (1) of this paragraph, less 40 cents.

(b) *Class II milk.* The price for Class II milk shall be the higher of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to subparagraph (1) or (2) of this paragraph.

(1) The arithmetic average of the basic, or field, prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department:

Concern and Location

Carnation Co., Ava, Mo.
Carnation Co., Seymour, Mo.
Pet Milk Co., Greenville, Ill.
Litchfield Creamery Co., Litchfield, Ill.

Indiana Condensed Milk Co., Bunker Hill, Ill.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
Borden Co., New London, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph.

(i) Multiply by 3.5 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the delivery period, and add 20 percent thereof;

(ii) From the simple average, as computed by the market administrator, of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5½ cents, and then multiply by 7.

§ 911.51 *Butterfat differentials to handlers.* If the weighted average butterfat test of Grade A producer milk or Nongrade A producer milk, respectively, classified in Class I milk or Class II milk for a handler pursuant to § 911.46 (c) is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the appropriate class price for such grade of milk, for each one-tenth of one percent that such weighted average butterfat test of milk in such class is above or below 3.5 percent, a butterfat differential calculated as follows:

(a) *Class I milk*—(1) *Grade A.* Multiply by 1.25 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period, and divide the result by 10.

(2) *Nongrade A.* Multiply by 1.22 the average price of butter computed pursuant to subparagraph (1) of this paragraph, and divide the result by 10.

(b) *Class II milk.* Multiply by 1.20 the average price of butter computed pursuant to paragraph (a) (1) of this section, and divide the result by 10.

§ 911.52 *Location differential to handlers.* With respect to skim milk and butterfat contained in milk which is received from producers at a pool plant located outside of the St. Louis, Missouri, marketing area, as defined in Order No. 3, and which is classified as Class I milk, a handler shall be allowed the amount per hundredweight set forth in the schedule below for the airline distance from the City Hall at St. Louis, Missouri, to the pool plant where such milk was received from producers: *Provided,* That such an allowance shall not result in a Class I price, f. o. b. pool plant, which is less than the Class II price computed pursuant to § 911.50 (b):

Distance from the City Hall at St. Louis, Mo.	*Amount per hundredweight (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
Within each 10-mile zone thereafter—an additional 1 cent.	

APPLICATION OF PROVISIONS

§ 911.60 *Producer-handlers.* §§ 911.40 through 911.46, 911.50 through 911.52, 911.70, 911.71, and 911.80 through 911.88 shall not apply to a producer-handler.

§ 911.61 *Pool plants subject to other orders.* In the case of any pool plant which is subject to the regulatory provisions of another milk marketing agreement or order (other than Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area) issued pursuant to the act and which the Secretary determines disposes of a greater volume of its Class I milk in the marketing area as defined by such other agreement or order than is disposed of in the marketing area as defined by this order §§ 911.30 through 911.32, 911.50 through 911.52, 911.70, 911.71, and 911.80 through 911.88 of this order shall not apply, except that the operator of such pool plant shall make reports to the market administrator, with respect to his total receipts and utilization of skim milk and butterfat, at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator pursuant to § 911.32.

DETERMINATION OF UNIFORM PRICES

§ 911.70 *Computation of value of milk.* The value of Grade A producer milk and of Nongrade A producer milk, respectively, received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices and adding together the resulting amounts: *Provided,* That if the handler had an overage of either skim milk or butterfat, such excess as deducted from each class pursuant to § 911.45 (a) (5) or (b) shall be ratably apportioned between the receipts of Grade A and Nongrade A producer milk, and there shall be added to the respective values computed above an amount computed by multiplying the pro rata pounds of such overages by the applicable class prices: *And provided further,* That if the handler has received other source milk, other than milk priced under another marketing agreement or order issued pursuant to the act, during the delivery period, which is allocated to Class I milk pursuant to paragraph (a) (3) or (b) of § 911.45, an amount computed by multiplying the quantity of such Class I milk by the difference between the applicable price of Class I milk and Class II milk for the lowest grade of milk received from producers at the plant of such handler, shall be added to the value computed pursuant to this section for the lowest grade of milk.

§ 911.71 *Computation of uniform prices.* For each delivery period the market administrator shall compute separately the uniform prices per hundredweight for Grade A milk and Nongrade A milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into separate totals the values of Grade A milk and Nongrade A milk computed pursuant to § 911.70 for all handlers who made the reports pursuant to § 911.30 for such delivery period, except those in default of payments pursuant to § 911.84 for the preceding delivery period;

(b) Add to the respective values computed pursuant to paragraph (a) of this section the amount of any location adjustment required to be made pursuant to § 911.82 with respect to such milk;

(c) Add amounts representing the cash balances on hand in the respective producer-settlement funds less the total amounts of contingent obligations to handlers pursuant to § 911.85;

(d) Subtract if the weighted average butterfat content of the milk included in the respective computations is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 911.81 and multiply the respective result by the total hundredweight of such milk represented by the values included in paragraph (a) of this section;

(e) Divide the resulting amounts by the total hundredweight of Grade A and Nongrade A milk, respectively, represented by the values included in paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amounts per hundredweight computed pursuant to paragraph (e) of this section. The resulting figures shall be the uniform prices for Grade A and Nongrade A milk, respectively, of 3.5 percent butterfat content received from producers.

PAYMENTS

§ 911.80 *Time and method of payment for milk.* Each handler shall make payment on or before the 15th day after the end of each delivery period, to each producer or cooperative association for all milk received during such delivery period from such producer or from producers who are members of such cooperative association at not less than the applicable uniform price for such delivery period computed pursuant to

§ 911.71 subject to the following adjustments: (a) The butterfat differential pursuant to § 911.81; (b) the location differential pursuant to § 911.82; (c) less marketing service deductions pursuant to § 911.87; (d) less deductions authorized by the producer; and (e) any error in calculating payments to such individual producer for past delivery periods: *Provided*, That if by such date such handler has not received full payment for such delivery period for any grade of milk pursuant to § 911.85 he may reduce uniformly per hundredweight for all producers from whom such grade of milk was received his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

§ 911.81 *Producer-butterfat differential.* In making payments pursuant to § 911.80, each handler shall add to or subtract from the applicable uniform price for each one-tenth of one percent that the average butterfat content of the milk received from such producer is above or below 3.5 percent, an amount computed by multiplying the average price of butter computed pursuant to § 911.51 (a) (1), by 1.20, dividing the result by 10, and rounding to the nearest multiple of one-half cent.

§ 911.82 *Location differential to producers.* In making payments to producers pursuant to § 911.80, each handler shall deduct from the applicable uniform price for such producer with respect to milk received from the producer at a pool plant located outside of the St. Louis, Missouri, marketing area, as defined in Order No. 3, the applicable amounts set forth below:

Distance from the City Hall at St. Louis, Mo.	*Amount per hundredweight (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
Within each 10-mile zone thereafter—an additional 1 cent.	

§ 911.83 *Producer-settlement funds.* The market administrator shall establish and maintain two separate funds known as the "Grade A producer-settlement fund" and the "Nongrade A producer-settlement fund," respectively, into which he shall deposit all payments made by handlers pursuant to §§ 911.61 (b), 911.84, and 911.86 and out of which he shall make all payments to handlers pursuant to §§ 911.85 and 911.86: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

§ 911.84 *Payments to the producer-settlement funds.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator the amount, if any, by which the utilization value of the respective grade of milk received from producers by such handler during the delivery period as computed pursuant to § 911.70 is greater than an amount computed by multiplying the hundredweight of milk received from such producers by the applicable uniform price adjusted by the butterfat differential provided for in § 911.81 and the location differential provided for in § 911.82.

§ 911.85 *Payments out of the producer-settlement funds.* On or before the 14th day after the end of each delivery period, the market administrator shall pay to each handler the amount, if any, by which the utilization value of the respective grade of milk received from producers by such handler during the delivery period as computed pursuant to § 911.70 is less than an amount computed by multiplying the hundredweight of milk received from such producers by the applicable uniform price adjusted by the butterfat differential provided for in § 911.81 and the location differential provided for in § 911.82: *Provided*, That if the balance in such producer-settlement fund is insufficient to make all payments with respect to such grade of milk pursuant to this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 911.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

§ 911.87 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 911.80 shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from, and to provide market information to, such producers. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph ( ) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and on or before the 15th day after the end of such delivery period shall pay such deductions to the cooperative association rendering such services.

§ 911.88 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 15th day after the end of the delivery period, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts at his pool plant within the delivery period of milk from producers, including such handler's own production: *Provided*, That each cooperative association shall pay such pro rata expense on only that milk from producers for which it is a handler.

§ 911.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the

part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 911.90 *Effective time.* The provisions hereof or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 911.91.

§ 911.91 *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 911.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 911.93 *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 911.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 911.101 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 27th day of October 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 50-9673; Filed, Oct. 31, 1950; 8:53 a. m.]

[7 CFR, Part 916]

[Docket No. AO-217]

HANDLING OF MILK IN SOUTHERN ILLINOIS

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order regulating the handling of milk in the Southern Illinois marketing area.

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 20th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and the proposed order were formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a petition filed by the Prairie Farms Creamery of Carbondale, Illinois. Additional proposals were submitted by Harrisburg Dairy Products, Inc. The public hearing was held in Murphysboro, Illinois, on March 7 to 11, 1950, inclusive, pursuant to a notice duly published in the FEDERAL REGISTER (15 F. R. 800).

The material issues considered at the hearing were concerned with the following:

A. Whether the handling of milk in the Southern Illinois marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products;

B. Whether marketing conditions justify the issuance of a marketing agreement or order regulating the handling of milk in the Southern Illinois marketing area; and

C. If issuance of such an agreement or order is justified, what its provisions should be.

The evidence on this last issue involved the following:

(1) The extent of the marketing area;
(2) The definition of "producer," "handler," "pool plant," "other source milk," and other terms;
(3) The classification and allocation of milk;
(4) The determination and level of class prices;
(5) Payments to producers;
(6) Administrative provisions necessary to carry out the foregoing provisions.

Findings and conclusions. Upon the basis of the evidence adduced at the hearing, it is hereby found and concluded that:

(A) The handling of milk produced for the Southern Illinois marketing area is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and its products.

Southern Illinois handlers purchase much of their milk supply in surrounding Illinois counties in competition with St. Louis, Missouri (Order No. 3), handlers who also obtain supplies from Missouri and Arkansas and who dispose of such milk in fluid uses in St. Louis and the surrounding area in both Missouri and Illinois. Milk purchased and bottled in Indiana, Kentucky, and Missouri is distributed in the proposed marketing area in direct competition with locally produced and bottled milk. Prairie Farms Creamery of Carbondale, the largest handler in the area, disposes of approximately 50 percent of its fluid receipts in manufactured uses in addition to large volumes of sour cream similarly disposed of. At least 45 percent of its plant receipts are disposed of as butter, cream, condensed products, and nonfat dry milk solids throughout the southeastern states on regular wholesale routes and from company operated trucks. Surplus butterfat is regularly obtained from Nashville, Memphis, and Dyersburg, Tennessee, and processed into creamery butter and sold throughout the southeastern states. Ice cream manufactured in St. Louis, Missouri, from ingredients purchased on the open market is sold in Southern Illinois in competition with ice cream manufactured from locally produced milk by local handlers.

From the foregoing it is clear that a substantial volume of the milk in the Southern Illinois market is moved physically in interstate commerce in the form of milk, cream, and manufactured dairy products, and that the handling of milk in the market directly burdens, obstructs, and affects interstate commerce in milk and its products.

(B) Milk marketing conditions in the Southern Illinois market justify the issuance of a marketing agreement and order.

Producers on the Southern Illinois market are not being paid for their milk on a use basis and there is no uniform pricing plan as among the several handlers with the result that producer prices for milk of similar quality and use vary

substantially. Producers generally are not being returned a price for their milk used for fluid purposes which is significantly different from prevailing condensery prices.

Prairie Farms Creamery of Carbondale, Illinois, a bona fide cooperative association of producers and the largest handler in the market supplies distributors who handle approximately 50 percent of the fluid milk sales in the market with all of their milk requirements, but does not itself bottle or distribute on retail routes. It does, however, represent the primary surplus outlet for the market and the greater part of the producer milk not needed for fluid uses is processed through this plant. As a result approximately 50 percent of Prairie Farms Creamery's whole milk receipts are actually utilized in other than fluid uses whereas the combined utilization of other handlers, excluding those wholly supplied by Prairie Farms, is 90 percent in fluid uses and 10 percent in other uses. Notwithstanding, the record shows no significant differences between the pay prices of Prairie Farms and those of other receiving handlers in the market. Under these circumstances it is obvious that producers are not being paid for their milk on a use basis and the record indicates that the prices which have been paid to producers are substantially lower than appears economically justified. Unless prices paid for milk for fluid uses reflect the added costs of producing such milk as compared to milk for manufacturing uses it is inevitable that in the long run serious market shortages will result and that prices higher than would otherwise be warranted will prevail.

At the present time the market information necessary to enable producers to effectively bargain with handlers in the sale of their milk is not available. Data are completely inadequate with reference to prices paid, plant receipts, and plant utilization. The issuance of a marketing order will provide the medium for developing the market information necessary for efficient marketing of producer milk and will enable producers to participate more actively and effectively in improving marketing conditions. In addition, the proposed order will provide a pricing structure which will return to producers a value for their milk which is appropriately related to market supply and demand conditions and to an adequate long-run supply of pure and wholesome milk in the market.

(C) From the evidence, it is concluded that the proposed marketing agreement and order which are hereinafter set forth and all of the terms and conditions thereof, meet the needs of the Southern Illinois market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the several provisions of the proposed marketing agreement and order.

(1) *Extent of the marketing area.* The marketing area should be defined to include the Counties of Randolph, Perry, Franklin, Jackson, Williamson, Saline, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac, all in the State of Illinois.

Proponents proposed that the marketing area also include the territory within Hamilton County. They contend that the area which they proposed is a compact area of similar agriculture, climate, topography, soil fertility, industrial development, and population pattern and represents the smallest practical area of regulation.

Handlers proposed that the area be limited to Perry, Jackson, Union, Franklin, Williamson, and Saline Counties contending that this area contains 63 percent of the population and 71 percent of the effective buying power in the producers' proposed 14 county area. They further contend that Pope, Hamilton, Massac, and Hardin Counties are small and barren with respect to business opportunities and that the southern tip of the 14 county area which embraces Alexander and Pulaski Counties is a different trading area separated from the balance of the area by hill country.

The area herein decided upon is a relatively homogeneous market bounded by natural water boundaries on the west and south and limited on the east and north by operations of large distributors who under any further extension of the area would become handlers under this proposed order while having a preponderance of their business outside the marketing area. The area as herein proposed represents the principal area covered by handlers to whom Prairie Farms Creamery of Carbondale supplies milk. To exclude any part thereof which is also served by another distributor who would not then be a handler under this proposed order would adversely affect the operations of Prairie Farms Creamery whose producers constitute the greater proportion of the total on the market. The limiting of the area to that proposed by the handlers could leave unregulated certain handlers in Cape Girardeau, Metropolis, and Chester, each of whom does substantial business in competition with handlers regulated because of their distribution in other parts of the area. To so limit the area could also tend to create inequities by excluding from the area of regulation the State Penitentiary which represents a substantial outlet for fluid milk, supply contracts for which are awarded on a bid basis.

(2) *Definitions.* (a) "Pool plant" should be designated as a plant other than that of a producer-handler which is used in processing and packaging of milk disposed of within the delivery period as Class I milk in the marketing area, a plant which receives milk which is regularly disposed of as Class I milk to a plant which disposes of Class I milk in the marketing area, or the plant of a cooperative association located within the marketing area. A definition of pool plant is necessary to facilitate the designation of the type of processor or distributor to be subject to regulation. It is intended that any plant which is a regular supplier of Class I milk should be included as a pool plant.

In many instances the local health authority is relied upon to define the regular source of supply for the market. Accordingly, the designation of a pool plant is usually dependent upon the receipt of milk from dairy farms holding farm inspection permits issued by the local health authority. Plants handling only milk from other sources but which are permitted by the local health authority to supply Class I milk to the market on an emergency basis are not considered as a regular source of supply and are not regulated under an order.

In the marketing area as herein proposed the health regulations cannot be used to define generally the regular source of supply for the market. It is, therefore, necessary to devise another means of designating the type of plant operations which are to be regulated. It is concluded that all plants distributing Class I milk in the area and all other plants regularly supplying milk to plants distributing Class I in the area should be designated as pool plants. Accordingly, any plant distributing Class I milk in the marketing area during the delivery period is designated a pool plant. In addition, any plant which is used in the receipt of milk and from which milk is disposed of during the delivery period to such a distributing plant is designated as a pool plant. Provision is made for the pooling of a receiving plant during the delivery periods of February through August, even though such plant does not furnish milk to a distributing plant during this period, if the receiving plant had furnished milk to a distributing plant during each of the preceding delivery periods of September through January. This is necessary to permit stand-by plants to keep milk in the country during the flush production months and continue to share in the pool. For the delivery periods of February through August 1951, it is provided that a receiving plant shall be pooled if milk is disposed of from such plant to a distributing plant during each of the delivery periods from the effective date of any order through January 1951. This is in keeping with the principles discussed herein.

There is at present a large manufacturing plant located within the marketing area and operated by a cooperative association. This plant furnishes the total fluid requirements of several handlers who distribute a combined total of approximately 50 percent of the Class I business in the marketing area. It also represents the primary outlet for the surplus milk in the area and in the past has handled the bulk of the surplus for the market. As long as this plant maintains its association with the fluid milk market it should retain pool plant status.

Any milk distributing or processing plant excluded under any of the conditions described above is defined as a "nonpool plant."

The term "producer" should be defined as any person, except a producer-handler, who produces milk which is received at a pool plant, or is diverted from a pool plant to any milk distributing or manufacturing plant. The definition of such term facilitates the designation of the milk which is to be subject to the pricing provisions of the order. Since the order applies to deliveries of whole milk by producers it is not intended that a person be considered a producer with reference to skim milk or

butterfat which he delivers to a pool plant in the form of sweet or sour cream. In order to eliminate possible conflicts between this order and Order No. 3 regulating the handling of milk in the St. Louis, Missouri, marketing area or Order No. 77 regulating the handling of milk in the Paducah, Kentucky, marketing area a person should not qualify as a producer under either Order No. 3 or Order No. 77 and this order. Accordingly, it is provided that a person defined as a producer under the provisions of Order No. 3 or Order No. 77 shall not be a producer for the same milk under the terms of this order.

Milk disposed of as fluid milk in the marketing area may be approved Grade A under the Illinois Grade A law or Nongrade A milk which is not regulated by an ordinance of the State or any local health authority. Separate pooling and pricing is proposed for Grade A milk and for Nongrade A milk. Accordingly, producers are defined as either Grade A producers or Nongrade A producers.

The term "handler" should include a producer-handler and any person in his capacity as operator of a pool plant. A definition of handler is necessary in order to specify the types of processors and distributors who are to be subject to regulation. Milk diverted from a pool plant to a nonpool plant for the account of the handler is considered to have been received at the pool plant since producers of such milk would ordinarily be regular suppliers of the market and as each should be assured the market blend price for their milk. The term should also include any cooperative association of producers which might divert producer milk for the account of such association. The inclusion in the definition of a cooperative association, even though it might not operate a plant, will promote efficient utilization of producer milk in the highest available use class since such an arrangement will permit the cooperative association to divert milk for Class I uses which might otherwise be used by proprietary handlers in Class II.

"Other source milk" should be defined to include all skim milk and butterfat from a producer-handler or from a source other than producers or other handlers. Nonfluid milk products received and disposed of in the same form, however, should be excepted. Since producer-handlers normally dispose of their milk during most of the year in Class I products and since sales of Class I milk by these handlers would not be pooled the pooling of any surplus milk purchased by handlers from producer-handlers would result in a preferential market for producer-handlers as compared with regular producers.

Milk purchased from producer-handlers should be treated therefore as other source milk and would be unpriced under this proposed order. Nonfluid milk products received and disposed of in the same form are not included as other source milk because they would not affect the classification of producer milk.

The terms "act," "person," "Secretary," "Department," "cooperative association," and "delivery period" are defined in order to facilitate the drafting of other provisions of the order. These terms are common to Federal milk marketing orders issued pursuant to the act and no differences developed at the hearing regarding their definition.

(3) *Classification and allocation of milk.* The classification of milk should be as follows: Class I milk should include all skim milk and butterfat disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, milk drinks (both plain and flavored), cream (including sour cream), any mixture of cream and milk or skim milk (except bulk ice cream mix, eggnog, and reddiwip, instant whip, super whip, and similar products), and all skim milk and butterfat not specifically accounted for as Class II milk. Class II milk should include all skim milk and butterfat used to produce any product other than those specified in Class I, disposed of for livestock feed, in actual plant shrinkage of skim milk and butterfat received in producer milk (but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively), and actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received.

Producers proposed a three-class classification scheme which would divide Class II as outlined above, placing skim milk and butterfat utilized in ice cream, ice cream mix, and evaporated milk in hermetically sealed cans in a separate class priced above milk disposed of in other manufactured products. Handlers on the other hand, while also proposing three classes, would divide Class I as outlined above, placing skim milk and butterfat disposed of as fluid cream and cream mixtures containing not less than 6 percent butterfat in a separate class priced lower than milk disposed of in other fluid products.

The products to be classified as Class I are those normally associated with a fluid milk business, and are all disposed of in the marketing area in fluid form through the same retail and wholesale channels as bottled fluid milk. Their physical characteristics, purposes, values, and uses are more nearly similar to those of fluid milk than to the products to be classified as Class II and they are normally made from a higher quality of milk than that disposed of in manufactured products.

The products to be classified in Class II are those which normally are competitively priced on a national market. It is necessary that a lower pricing be provided for milk so utilized in order to assure free movement of excess supplies into manufacturing channels without burdensome competitive disadvantages to affected handlers.

Skim milk and butterfat contained in cream and cream mixtures is subject to the same production costs as milk for other fluid uses. Furthermore, milk so utilized is the same quality of milk as is disposed of in other Class I products and is subject to the same transportation costs in moving from the farm to the handler's plant.

The classification of skim milk and butterfat disposed of in ice cream, ice cream mix, and evaporated milk in hermetically sealed cans in a separate class priced somewhat above milk disposed of in other manufactured products could result in serious inequities to local handlers. Much of the ice cream disposed of within the marketing area and in the surrounding territory is handled by distributors who would not be handlers under this proposed order and who consequently would not be regulated as to prices paid. Their skim milk and butterfat requirements are purchased competitively on a national market. Furthermore, the milk so utilized for sale in the proposed marketing area is not subject to any particular health requirements.

Producers proposed a 2 percent maximum shrinkage allowance in the lowest use class, the same as under the St. Louis, Missouri, marketing order. Handlers did not contest a 2 percent allowance on butterfat but argued for a 5 percent allowance on skim milk contending that such an allowance was needed to take care of necessary dumpage of skim milk including route returns. Losses through unusable route returns are a normal business risk which the handlers should not expect the producer to assume. The record indicates that there are ample manufacturing facilities in the area for disposal of all excess skim milk and butterfat and it is not believed that the dumping of any significant volume of either skim milk or butterfat should be necessary. A maximum allowable shrinkage of 2 percent on producer milk should be included in Class II. Any shrinkage in excess of that amount should be classified as Class I. No limit is provided for shrinkage of other source milk allowed in Class II since such milk is deducted from the lowest use class under the allocation provisions.

It is not administratively feasible to segregate the actual plant shrinkage on producer milk from shrinkage on other source milk in the same plant. Consequently, in such cases, the shrinkage of skim milk and butterfat, respectively, allocated to Grade A producer milk, Nongrade A producer milk, and other source milk should be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources.

In establishing the classification of milk the responsibility should be placed upon the handler who first receives milk from producers to account for all skim milk and butterfat received at his pool plant and to prove to the market administrator that such skim milk and butterfat should be classified as other than Class I. The handler who first receives milk from producers is responsible for reporting the proper utilization of such milk and making full payment for it. He must therefore maintain records to furnish adequate proof of utilization to the market administrator. For the protection of both producers and handlers skim milk or butterfat classified in one class should be reclassified if used or reused by such handler or by another handler in another class.

Provision should be made in the order to cover the classification of skim milk and butterfat transferred from a pool plant to another pool plant or to a non-

pool plant. In the case of transfers between pool plants classification should be on the basis of written agreement between the affected handlers to the extent of utilization in the agreed use in the transferee plant. This provision affords suitable flexibility in the pricing, classification, and accounting for of milk transferred. It does not affect producer returns because all of the milk is accounted for in the pool computation in any event. In order to assure adequate protection of producers in the classification of their milk it should be provided that in case other source milk is received in either or both plants the classification of milk in each plant shall be made in such a manner as will return the higher class utilization to producer milk. The allocation provisions as hereinafter proposed give priority to Grade A producer milk over Nongrade A producer milk. Accordingly, it should be further provided that when Grade A producer milk is received at either plant involved in an interhandler transfer the milk so disposed of shall be classified at both plants to return the higher class utilization to Grade A producer milk.

Transfers to a producer-handler should be classified as Class I milk. Producer-handler ordinarily carry on only fluid operations. Any milk which they purchase from a handler would normally be for fluid uses and it is unnecessary to provide for the classification of such a transfer in a lower use class.

Transfers to a nonpool plant should be classified on the basis of written agreement in the same manner as outlined for interhandler transfers. This would facilitate the movement of skim milk and butterfat in excess of Class I needs and at the same time protect producers in the classification of milk by requiring adequate records to prove to the market administrator that an equivalent amount of skim milk and butterfat was actually used in the claimed class.

The allocation provisions should provide that other source milk, which is unpriced, be allocated to the lowest use in the handler's plant. This is done to prevent other source milk from displacing the milk or producers which constitutes the regular supply of the market. In the allocation of producer milk, Grade A milk should be assigned the highest utilization. A handler customarily utilizes the highest quality milk in his plant for fluid purposes and hence the assignment of this milk to the highest class is consistent with the preferential use given to this milk by handlers.

Handlers proposed that Class II utilization in an amount not to exceed 5 percent of producer receipts be allocated to producer receipts. While such a provision is contained in the St. Louis order the need for such a provision was not established in this record. An ample supply of producer milk is available in the Southern Illinois market. Any temporary shortage would be the result of an erroneous decision on the part of handlers as to the quality of regular milk which they procure. Producers should not be required to share the cost of importing other source milk for an individual handler to alleviate a shortage resulting from his own erroneous decision.

(4) *Class prices.* Class I milk prices should be determined by using the basic formula price as computed under the pricing provisions of Order No. 3 and adding specified differentials.

Both producers and handlers proposed that the Southern Illinois Class I price be related to the St. Louis (Order No. 3) price in recognition of the direct competition between the two markets for milk supplies. While producers proposed the use of differentials in pricing Grade A milk under this order which would result in prices approximating those established under the St. Louis Order it appears that a greater investment is necessary to provide facilities to meet the requirements for the production of milk qualified for the St. Louis market, and that greater day-to-day costs must be incurred in the care of cows and equipment and in the production of milk under the St. Louis ordinance. The use of the same basic formula price will maintain a direct relationship in prices between the two markets. However, in recognition of the lower production costs incurred in the production of Illinois Grade A milk as compared to milk produced for the St. Louis market such milk should be priced somewhat below the prices specified in the St. Louis Order. Accordingly, it is concluded that differentials of $1.35 for the delivery periods of July through December, $0.90 for the delivery periods of January through March, and $0.50 for the delivery periods of April through June should be added to the basic formula price to establish the level of prices for Grade A milk disposed of in Class I. The resulting prices would average approximately $0.15 under the St. Louis price on an annual basis but would carry a substantially greater seasonality which is needed to promote a more uniform pattern of milk production consistent with the demand pattern for milk for Class I use in the marketing area.

Nongrade A milk should be priced 40 cents under the Grade A price. The resulting prices for Nongrade A milk will vary seasonally from 10 cents over the basic formula price during the months of April through June to 95 cents over the basic formula price during the months of July through December. These differentials are designed to cover the extra costs of producing the quality of milk required by handlers for bottling purposes, to promote a more uniform seasonal production pattern, and to assure an adequate supply of quality milk over a period of time.

The Class I prices herein proposed would have returned producers of Grade A milk an average price of $4.15 per hundredweight, during the year of 1949, which was approximately the price received by such producers during this period.

Producers proposed a supply-demand adjustment factor for inclusion in the Class I price formula. However, the effective date of such a provision should be delayed until a reasonable period has elapsed to determine the effect of the pricing herein proposed. Moreover, at the present time there are no available data on the volume of Class I sales in the marketing area or on the month-to-month production of producer milk. Such data are necessary to determine the volume of milk needed to supply Class I needs of the market during all seasons of the year. If at a later time a supply-demand adjustment factor still appears desirable further consideration can be given when more complete data on production and Class I sales are available.

The price for Class II milk should be the higher of (1) the average price paid for milk of 3.5 percent butterfat content at 23 plants which utilize milk for manufacturing purposes (particularly for manufacturing evaporated milk), or (2) a price computed from the prices of 92-score butter at Chicago and the prices of nonfat dry milk solids f. o. b. certain manufacturing plants in the Chicago area.

Such a pricing assures producers the higher of the competitive manufacturing values for their surplus milk and at the same time maintains a direct relationship between surplus prices under the St. Louis marketing order and this order. The St. Louis market obtains its supplies of milk from an area which encompasses a portion of the Southern Illinois supply area and the disposition of surplus milk in both areas is substantially in the same uses. The prices for surplus milk under both the St. Louis Order and this order should, therefore, be substantially the same.

At the present time the butter-powder formula would be the higher and accordingly would be the Class II price determinate. On the basis of current butter and nonfat dry milk solids quotations the formula herein proposed would net handlers a return of from 60 to 65 cents per hundredweight of 3.5 milk—the difference between the cost of 100 pounds of 3.5 milk and the sale value of 4.27 pounds of butter and 7.76 pounds of spray nonfat dry milk solids which it is estimated should be obtained from 8.75 pounds of 40 percent cream and 91.25 pounds of skim milk. This proposed pricing should promote the use of local producer milk in ice cream since butterfat is priced at the local competitive price and the residual skim value is such that when a handler's costs for condensing are included the total cost will be comparable with the cost of importing condensed skim milk.

The price computed for each class on the basis of milk containing 3.5 percent butterfat should be adjusted to reflect the weighted average butterfat content of the several products classified in the respective classes. The Class I Grade A differential should be 1.25 times the price of 92-score butter at Chicago and the Class I Nongrade A differential should be 1.22 times the price of 92-score butter at Chicago. The Class II differential should be 1.20 times the price of 92-score butter at Chicago. A Class I Grade A differential of 1.25 prices Grade A butterfat at the same level as that under Order No. 3 which is the nearest supplemental supply of Grade A butterfat. A Class I Nongrade A differential of 1.22 reflects the higher-valued use of butterfat for fluid uses as compared to manufactured uses. A Class II differential of 1.20 reflects the general value of butter-

fat for manufacturing uses. These differentials as herein proposed appear to provide an appropriate division of the price between skim milk and butterfat and should encourage the maximum utilization of producer butterfat.

The pricing of Class I milk on the basis of an f. o. b. marketing area price adjusted by a location allowance in case of milk received at a pool plant located beyond the limits of the marketing area is in accord with handlers' proposal for the inclusion of a location differential. A location differential is necessary to reflect the different values of milk delivered at different distances from the market. The allowance also takes into consideration the necessity for maintaining country receiving facilities for milk delivered at points outside of the marketing area.

Handlers proposed that distributors located outside the marketing area and doing less than 10 percent of their Class I business within the marketing area and those doing less than 10 percent of their business in Class I be exempt from regulation except for the payment into the pool of the difference between the Class I and the Class II prices on the volume of milk utilized in Class I in the marketing area. However, there is insufficient evidence in the record to enable consideration of the adoption of such a provision.

(5) *Payments to producers.* The "market-wide" type of pool should be established in this order for the purpose of distributing among producers returns from the sale of their milk. Under the market-wide pooling arrangement all producers receive the same uniform price for their milk irrespective of the utilization made of such milk by the handlers to whom they sell.

The alternative to the market-wide pool is individual-handler pools. Under the latter system producers delivering to each handler receive a uniform price based on each handler's utilization of milk. Because different handlers utilize different proportions of their milk as Class I and Class II, the uniform prices of individual handlers would vary one from the other. Prairie Farms Creamery of Carbondale, a cooperative association and a handler in the market, represents the principal outlet for surplus milk in the market and under an individual-handler pool the price paid by Prairie Farms probably would be less than prices paid by other handlers despite the fact that producers at Prairie Farms delivered the same quality milk and their production is readily available for the market. A market-wide pooling arrangement would provide for equal prices for milk of equal quality delivered for sale in the marketing area.

Under market-wide pooling two separate producer settlement funds for making adjustments in payments as among handlers will be set up. One fund will be for Grade A milk, the other will be for Nongrade A milk. All handlers will pay producers of the same grade of milk the same uniform price per hundredweight, and each handler will pay into or draw from the producer-settlement fund the difference between the actual use value of his milk (as determined by the prices fixed for milk used in each class) and the announced uniform price (the average use value of milk received by all handlers) which he pays to his producers.

In the computation of the value of producer milk, provision should be made for the inclusion of the values of milk classified in excess of reported receipts from producers, handlers, and other sources. Federal milk orders frequently contain this provision in order to cover discrepancies between the reported and actual weights and tests of milk received from producers. In case a handler having excess skim milk or butterfat has received Grade A and Nongrade A milk during the delivery period, such excess would be ratably apportioned between the several grades of milk received.

In the event that a handler has received other source milk allocated to Class I and which is not priced under another marketing agreement or order an amount should be added to the value of the lowest grade of producer milk received by such handler computed as follows: Multiply the quantity of such other source milk by the difference between the applicable prices for Class I and Class II milk. As previously indicated all sources of milk regularly used for Class I will be included in the pool. The pool plant definition affords opportunity to any handler to develop an adequate supply of producer milk for his Class I needs. There should be no reason for an insufficient supply of producer milk under such circumstances. If any handler elects to use other source milk in preference to utilizing an available source of producer milk, local producers should not be penalized. Accordingly, it is provided that such handler pay into the pool for distribution among regular producers, the difference between the Class I and the Class II prices on other source milk so utilized. Such a provision gives assurance to both producers and handlers that all milk utilized for fluid purposes is purchased on a use basis at minimum order prices. Other source milk priced under another marketing order is exempt because such milk would be priced on a use basis commensurate with its value as determined under the other order.

Provision should also be made in the payment of producers for the adjustment of the applicable uniform price to reflect the actual test of the milk received from a producer and the location of the pool plant where such milk is received. The producer butterfat differential should be fixed at one-tenth of the price of 92-score butter on the Chicago market multiplied by 1.2. This is the same as the handler butterfat differential for Class II and approximates the average value of butterfat for manufacturing uses. The location allowances to producers should be the same as those established for handlers for milk used in Class I which are estimated to equal the cost of moving milk to the marketing area. All producers accordingly would receive the same price for the same test of milk f. o. b. marketing area. The producer butterfat differential and location allowances are merely means of prorating returns to producers and do not affect handlers' costs for milk.

Payments to producers should be made on a monthly basis on the 15th day after the close of the delivery period. This is the method of settlement currently being followed in making payment to the majority of producers and there was no evidence that any other payment schedule would be more practical. All dates covering reports of handlers, computation and announcement of uniform prices, and payments into and out of the producer-settlement funds should be set to enable payment at such time. Payments due to a cooperative association for milk of its members should be made on the 13th day after the close of the delivery period. This will enable the association to pay its members on the 15th, the same date that other producers are paid. Handlers can comply with such a provision because it involves the writing of only a single check for the milk of all association members. All payments made directly to producers or an association of producers, or through the producer-settlement fund should be adjusted for errors made in such payments for preceding delivery periods.

The market administrator in making payments to any handler from the producer-settlement fund should offset such payments by the amount of payment due from such handler. Without this provision, the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing fraudulent reports or who owes money to the producer-settlement fund but who is financially unable to make full payment of all of his debts.

(6) Certain other provisions should be adopted to enable proper and efficient administration of the order.

(a) *Administrative assessment.* Each handler should be required to pay to the market administrator as his pro rata share of the cost of administration 4 cents per hundredweight or such lesser sum as the Secretary may from time to time prescribe on all receipts of producer milk at a pool plant. The market administrator must have the necessary funds to enable him to administer properly the terms of the order and the act provides that the administration be financed through assessment against handlers. In view of the anticipated volume of milk on which the rate would apply, it is concluded that a maximum rate of 4 cents per hundredweight is necessary at this time to provide sufficient administrative funds. In the event a lesser amount proves to be sufficient provision is made to enable the Secretary to reduce the assessment at a later date.

(b) *Deductions for marketing services.* Provision should be made for the dissemination of market information to producers and for the verification of weights and for the sampling and testing of milk received from producers for whom such services are not being rendered by a qualified cooperative association. This provision, including the assessing of producers in payment thereof, is specifically authorized by the act. Six cents per hundredweight or such lesser rate as the Secretary may deter-

mine should be deducted by handlers from the payment to producers and turned over to the market administrator to finance such services. This rate was proposed by producer groups who have had experience with check sampling, weighing, and testing programs in the marketing area. In the event any qualified cooperative association is determined to be performing such services for any producer, handlers should pay to the cooperative association such deductions as are authorized by such producer in lieu of the payment to the market administrator.

(e) *Other administrative provisions.* The other provisions of the order are of a general administrative nature, are incidental to the other provisions of the order, and are necessary for the proper and efficient administration of the order. They provide for the selection of the market administrator, define his powers and duties, prescribe the information to be reported by handlers each month and the length of time that records must be retained. A plan for liquidation of the order in the event of its suspension or termination should also be provided.

Producer-handlers should be exempt from the regulatory provisions of the order except that they should be required to file reports as requested by the market administrator. Since a producer-handler may change his status from time to time it is necessary that the market administrator have authority to require such reports as will enable him to verify the current status of a producer-handler and to supplement other market information.

A pool plant which is subject to the regulatory provisions of another milk marketing agreement or order issued pursuant to the act and which the Secretary determines disposes of a greater volume of its Class I milk in such other marketing area than in this marketing area should be partially exempt from the provisions of this order. It would be impractical to attempt to regulate a handler under two separate orders with respect to the same milk. Accordingly, it should be provided that if a pool plant disposes of a greater volume of its Class I milk in a marketing area, regulated by another Federal milk marketing order, than is disposed of in this marketing area such plant shall be exempt from the reporting, pricing, payment, administrative assessment, and marketing service provisions of this order. Such a handler, however, should make reports with respect to receipts and utilization as the market administrator may require.

The order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all orders in operation on July 30, 1947, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444), covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Proposed findings and conclusions. Briefs were filed on behalf of Prairie Farms Creamery of Carbondale and the majority of the handlers who would be regulated. The briefs contained proposed findings of fact, conclusions, and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order:

DEFINITIONS

§ 916.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 916.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties pursuant to the act of the Secretary of Agriculture.

§ 916.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price-reporting functions specified herein.

§ 916.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 916.5 *Southern Illinois marketing area.* "Southern Illinois marketing area," hereinafter called the "marketing area," means all of the territory within the Counties of Randolph, Perry, Franklin, Jackson, Williamson, Saline, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac, all in the State of Illinois.

§ 916.6 *Delivery period.* "Delivery period" means a calendar month, or the portion thereof, during which this order is in effect.

§ 916.7 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and to have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 916.8 *Pool plant.* "Pool plant" means:

(a) Any plant which is used in the processing and packaging of milk any portion of which is disposed of from such plant on wholesale or retail routes (including plant stores or through vendors) within the delivery period as Class I milk in the marketing area, except the plant of a producer-handler and any plant from which Class I milk is so disposed of and at which the only milk received is from producers as defined under Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area or Order No. 77, as amended, regulating the handling of milk in the Paducah, Kentucky, marketing area:

(b) A milk processing plant of a cooperative association located inside the marketing area; or

(c) Any plant which is used in the receipt of milk and from which milk in bulk is disposed of during any delivery period to a plant described in paragraph (a) of this section: *Provided,* That this definition shall include during the delivery periods of February through August any plant which was used in the receipt of milk and from which milk in bulk was disposed of to a plant described under paragraph (a) of this section during each of the immediately preceding delivery periods of September through January: *And provided further,* That this definition shall include during the delivery periods of February through August 1951 any plant which was used in the receipt of milk and from which milk in bulk was disposed of to a plant described in paragraph (a) of this section during each of the delivery periods from the effective date of this order through the delivery period of January 1951.

§ 916.9 *Nonpool plant.* "Nonpool plant" means any milk processing or distributing plant other than a pool plant.

§ 916.10 *Handler.* "Handler" means (a) any person in his capacity as operator of a pool plant; (b) a producer-

handler; or (c) any cooperative association with respect to the milk of any producer which it causes to be diverted from a pool plant to a nonpool plant for the account of such association.

§ 916.11 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is: (a) Received at a pool plant; or (b) diverted from a pool plant to any milk distributing or milk manufacturing plant: *Provided,* That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted: *And provided further,* That a person defined as a producer under the provisions of Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area or Order No. 77, as amended, regulating the handling of milk in the Paducah, Kentucky, marketing area, shall not be a producer for the same milk under the provisions of this order.

§ 916.12 *Grade A producer.* "Grade A producer" means a producer whose milk complies with the quality requirements of the Grade A milk ordinance of the applicable political subdivision of the State of Illinois or the Grade A milk and Grade A milk products laws of the State of Illinois and is permitted by the Illinois State Health Department to be sold under a Grade A label as fluid milk in the marketing area.

§ 916.13 *Nongrade A producer.* "Nongrade A producer" means a producer other than a Grade A producer.

§ 916.14 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form from a producer-handler or from a source other than producers or other handlers except any nonfluid milk product received and disposed of in the same form.

§ 916.15 *Producer-handler.* "Producer-handler" means any person who processes milk from his own farm production all or a portion of which is disposed of within the marketing area as Class I milk, and who receives no milk from producers.

MARKET ADMINISTRATOR

§ 916.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 916.21 *Powers.* The market administrator shall have the following powers with respect to this order:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 916.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 916.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 916.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each delivery period as follows:

(1) On or before the 5th day after the end of such delivery period, the minimum class prices and the butterfat differentials for each class computed pursuant to §§ 916.50 and 916.51; and

(2) On or before the 12th day after the end of such delivery period, the uniform prices computed pursuant to § 916.71 and the butterfat differential computed pursuant to § 916.81;

(i) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 15 days after the day upon which he is required to perform such acts, has not made: (1) reports pursuant to §§ 916.30 and 916.31, or (2) payments pursuant to §§ 916.80 through 916.86;

(j) On or before the 12th day after the end of each delivery period, report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association, either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purpose of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class; and

(k) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 916.30 *Delivery period reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in all receipts at his pool plant(s) within such delivery period (1) of Grade A producer milk, (2) of Nongrade A producer milk, (3) from other handlers, and (4) of other source milk;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section;

(c) The name and address of each producer from whom milk was received for the first time and the date on which such milk was first received;

(d) The name and address of each producer who discontinued deliveries of milk and the date on which delivery ceased;

(e) The total pounds of milk, with the average butterfat test thereof, received from each producer for whom a cooperative association is to receive payment pursuant to § 916.80 (b); and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 916.31 *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may request:

(a) On or before the 20th day after the end of each delivery period his producer payroll for such delivery period, which shall show:

(1) The total pounds of milk received from each producer with the average butterfat test thereof, and

(2) The net amount of such handler's payment to each producer or cooperative association, together with the price, deductions, and charges involved.

§ 916.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat;

(b) The weights, samples, and tests for butterfat and for other content of all milk, skim milk, cream, and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and end of each delivery period.

§ 916.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such three year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the books and records are no longer necessary in connection therewith.

CLASSIFICATION

§ 916.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the delivery period and which is required to be reported pursuant to § 916.30 shall be classified by the market administrator pursuant to the provisions of §§ 916.41 through 916.46.

§ 916.41 *Classes of utilization.* Subject to the conditions set forth in §§ 916.42 through 916.43 the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, milk drinks (whether plain or flavored), cream (including sour cream), any mixture of cream and milk, or skim milk (except bulk ice cream mix, eggnog, reddi wip, instant whip, super whip, and other similar products), and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat accounted for (1) as having been used or disposed of in any product other than those specified in paragraph (a) of this section; (2) as disposed of for livestock feed; (3) in actual plant shrinkage of skim milk and butterfat received in producer milk, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (4) in actual plant shrinkage of skim milk and butterfat in other source milk received: *Provided*, That if milk from more than one source (Grade A producer milk, Nongrade A producer milk, and other source milk) is received at a pool plant during the same delivery period the shrinkage of skim milk and butterfat, respectively, allocated to each source shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

§ 916.42 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be classified as Class I milk, unless the handler who first received such skim milk and butterfat proves to the market administrator that such skim milk or butterfat should be classified in Class II.

(b) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 916.43 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a pool plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, but in no event shall the amount classified in Class II exceed the total use in such class by the transferee-handler: *Provided*, That if either or both handlers have received other source milk, such milk so disposed of shall be classified at both plants so as to return the higher class utilization to producer milk: *And provided further*, That if either or both handlers have received Grade A producer milk, such milk so disposed of shall be classified at both plants so as to return the higher class utilization to Grade A producer milk.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a nonpool plant, except that of a producer-handler, unless:

(1) The handler claims Class II on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the nonpool plant and the handler on or before the 7th day after the end of the delivery period within which such transfer occurred;

(2) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement: *Provided*, That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified as Class I.

§ 916.44 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 916.45 *Allocation of skim milk and butterfat classified.* The pounds of skim milk and butterfat remaining in each class after making the following computations for each handler for each delivery period shall be the pounds of skim milk and butterfat in such class allocated to producer milk received by such handler during such delivery period.

(a) Skim milk shall be allocated as follows:

(1) Subtract from the pounds of skim milk in each class the total pounds of skim milk received by such handler in milk from producers as defined under Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area, and Order No. 77, as amended, regulating the handling of milk in the Paducah, Kentucky, marketing area, and assigned to such class pursuant to the provisions of such order;

(2) Subtract from the total pounds of skim milk in Class II the plant shrinkage of skim milk in milk received from producers computed pursuant to § 916.41 (b) (3);

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk;

(4) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other handlers and assigned to such class pursuant to § 916.43 (a);

(5) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II.

(b) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in paragraph (a) of this section.

§ 916.46 *Allocation of producer milk classified.* For each delivery period the market administrator shall allocate the pounds of producer skim milk and butterfat in each class for each handler computed pursuant to § 916.45 to Grade A producer milk and to Nongrade A producer milk received by such handler during such delivery period.

(a) Skim milk shall be allocated as follows:

(1) Allocate to Class II skim milk the plant shrinkage of skim milk in Grade A producer milk computed pursuant to § 916.41 (b) (3);

(2) Allocate the remaining pounds of skim milk in Grade A producer milk in series beginning with Class I;

(3) The pounds of skim milk remaining in each class shall be the pounds of skim milk in such class allocated to Nongrade A producer milk received by such handler during such delivery period.

(b) Butterfat shall be allocated in the same manner prescribed for skim milk in paragraph (a) of this section.

(c) Add the pounds of skim milk and the pounds of butterfat allocated to Grade A producer milk in each class, respectively, and the pounds of skim milk and the pounds of butterfat allocated to Nongrade A producer milk in each class, respectively, as computed pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in Grade A producer milk and Nongrade A producer milk, respectively, in each class.

MINIMUM PRICES

§ 916.50 *Class prices.* Subject to the provisions of §§ 916.51 and 916.52 each handler shall pay producers at the time and in the manner set forth in §§ 916.80 through 916.86 not less than the following prices per hundredweight of milk:

(a) *Class I milk*—(1) *Grade A.* The price for Grade A Class I milk shall be the basic formula price computed by the market administrator in accordance with the pricing provisions of Order No. 3 regulating the handling of milk in the St. Louis, Missouri, marketing area, plus the following amounts per hundredweight: $1.35 for the delivery periods of July through December; $0.90 for the delivery periods of January through March; and $0.50 for the delivery periods of April through June.

(2) *Nongrade A.* The price for Nongrade A milk shall be the price computed for Grade A milk pursuant to subparagraph (1) of this paragraph less 40 cents.

(b) *Class II milk.* The price for Class II milk shall be the higher of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to subparagraph (1) or (2) of this paragraph.

(1) The arithmetic average of the basic, or field, prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department:

Concern and Location

Carnation Co., Ava, Mo.
Carnation Co., Seymour, Mo.
Pet Milk Co., Greenville, Ill.
Litchfield Creamery Co., Litchfield, Ill.
Indiana Condensed Milk Co., Bunker Hill, Ill.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
Borden Co., New London, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph.

(i) Multiply by 3.5 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the delivery period, and add 20 percent thereof;

(ii) From the simple average, as computed by the market administrator, of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5½ cents, and then multiply by 7.

§ 916.51 *Butterfat differential to handlers.* If the weighted average butterfat test of Grade A producer milk or Nongrade A producer milk, respectively, classified in Class I milk or Class II milk for a handler pursuant to § 916.46 (c) is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the appropriate class price for such grade of milk, for each one-tenth of 1 percent that such weighted average butterfat test of milk in such class is above or below 3.5 percent, a butterfat differential calculated as follows:

(a) *Class I milk*—(1) *Grade A.* Multiply by 1.25 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period, and divide the result by 10.

(2) *Nongrade A.* Multiply by 1.22 the average price of butter computed pursuant to subparagraph (1) of this paragraph, and divide the result by 10.

(b) *Class II milk.* Multiply by 1.20 the average price of butter computed pursuant to paragraph (a) (1) of this section, and divide the result by 10.

§ 916.52 *Location differential to handlers.* With respect to skim milk and butterfat contained in milk which is received from producers at a pool plant located outside of the marketing area and which is classified as Class I milk, a handler shall be allowed the amount per hundredweight set forth in the schedule below: *Provided,* That such an allowance shall not result in a Class I price, f. o. b. pool plant, which is less than the Class II price computed pursuant to § 916.50 (b):

Distance from the marketing area	*Amount per hundredweight (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
More than 40 but not more than 50 miles	18
More than 50 but not more than 60 miles	20
More than 60 but not more than 70 miles	22
More than 70 miles	24

APPLICATION OF PROVISIONS

§ 916.60 *Producer-handlers.* Sections 916.40 through 916.46, 916.50 through 916.52, 916.70, 916.71, and 916.80 through 916.88 shall not apply to a producer-handler.

§ 916.61 *Pool plants subject to other orders.* In the case of any pool plant which is subject to the regulatory provisions of another milk marketing agreement or order (other than Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area, or Order No. 77, as amended, regulating the handling of milk in the Paducah, Kentucky, marketing area) issued pursuant to the act and which the Secretary determines disposes of a greater volume of its Class I milk in the marketing area as defined by such other agreement or order than is disposed of in the marketing area as defined by this order, §§ 916.30 through 916.32, 916.50 through 916.52, 916.70, 916.71, and 916.80 through 916.88 of this order shall not apply, except that the operator of such pool plant shall make reports to the market administrator, with respect to his total receipts and utilization of skim milk and butterfat, at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator pursuant to § 916.32.

DETERMINATION OF UNIFORM PRICE

§ 916.70 *Computation of value of milk.* The value of Grade A producer milk and of Nongrade A producer milk, respectively, received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices and adding together the resulting amounts: *Provided,* That if the handler had an overage of either skim milk or butterfat, such excess as deducted from each class pursuant to § 916.45 (a) (5) or (b) shall be ratably apportioned between the receipts of Grade A and Nongrade A producer milk and there shall be added to the respective values computed above an amount computed by multiplying the pro rata pounds of such overages by the applicable class prices: *And provided further,* That if the handler has received other source milk, other than milk priced under another marketing agreement or order issued pursuant to the act, during the delivery period, which is allocated to Class I milk pursuant to paragraph (a) (3) or (b) of § 916.45, an amount computed by multiplying the quantity of such Class I milk by the difference between the applicable price of Class I milk and Class II milk, for the lowest grade of milk received from producers at the plant of such handler, shall be added to the value computed pursuant to this section for the lowest grade of milk.

§ 916.71 *Computation of uniform prices.* For each delivery period the market administrator shall compute separately the uniform prices per hundredweight for Grade A milk and Nongrade A milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into separate totals the values of Grade A milk and Nongrade A milk computed pursuant to § 916.70 for all handlers who made the reports pursuant to § 916.30 for such delivery period, except those in default of payments required pursuant to § 916.84 for the preceding delivery period;

(b) Add to the respective values computed pursuant to paragraph (a) of this section the amount of any location adjustment required to be made pursuant to § 916.82 with respect to such milk;

(c) Add amounts representing the cash balances on hand in the respective producer settlement funds less the total amount of contingent obligations to handlers pursuant to § 916.85;

(d) Subtract if the weighted average butterfat content of the milk included in the respective computations is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 916.81 and multiply the results by the total hundredweight of Grade A or Nongrade A milk, as the case may be, represented by the values included in paragraph (a) of this section;

(e) Divide the resulting amounts by the total hundredweight of Grade A and Nongrade A milk, respectively, represented by the values included in paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amounts per hundredweight computed pursuant to paragraph (e) of this section. The resulting figures shall be the uniform prices for Grade A milk and Nongrade A milk, respectively, of 3.5 percent butterfat content received from producers.

PAYMENTS

§ 916.80 *Time and method of payment.* Each handler shall make payments as follows:

(a) On or before the 15th day after the end of each delivery period, to each producer, except producers for whom payment is received from the handler by a cooperative association pursuant to paragraph (b) of this section, for all milk received during such delivery period from such producer at not less than the applicable uniform price for such delivery period computed pursuant to § 916.71, subject to the following adjustments: (1) The butterfat differential pursuant to § 916.81; (2) less marketing service deductions pursuant to § 916.87; (3) less the location differentials computed pursuant to § 916.82; (4) less deductions authorized by the producer; and (5) any error in calculating payments to such individual producer for past delivery periods: *Provided*, That if by such date such handler has not received full payment for such delivery period for any grade of milk pursuant to § 916.85, he may reduce uniformly per hundredweight for all producers from whom such grade of milk was received his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) On or before the 13th day after the end of each delivery period, if so requested, to a cooperative association with respect to producers whose milk was caused to be delivered to such handler during such delivery period by such cooperative association which is authorized to collect payment for such milk, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with paragraph (a) of this section.

§ 916.81 *Producer-butterfat differential.* In making payments pursuant to § 916.80, each handler shall add to or subtract from the applicable uniform price for each one-tenth of one percent that the average butterfat content of the milk received from such producer is above or below 3.5 percent, an amount computed by multiplying the average price of butter computed pursuant to § 916.51 (a) (1), by 1.20, dividing the result by 10, and rounding to the nearest multiple of one-half cent.

§ 916.82 *Location differential to producers.* In making payments to producers pursuant to § 916.80, each handler shall deduct from the applicable uniform price for such producer with respect to milk received from such producer at a pool plant located beyond the limits of the marketing area, the applicable amount set forth below:

Distance from the marketing area	*Amount per hundredweight (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
More than 40 but not more than 50 miles	18
More than 50 but not more than 60 miles	20
More than 60 but not more than 70 miles	22
More than 70 miles	24

§ 916.83 *Producer-settlement funds.* The market administrator shall establish and maintain two separate funds known as the "Grade A producer-settlement fund" and the "Nongrade A producer-settlement fund," respectively, into which he shall deposit all payments made by handlers pursuant to §§ 916.61 (b), 916.84, and 916.86 and out of which he shall make all payments to handlers pursuant to §§ 916.85 and 916.86: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

§ 916.84 *Payments to the producer-settlement funds.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator the amount, if any, by which the utilization value of the respective grade of milk received from producers by such handler during the delivery period as computed pursuant to § 916.70 is greater than an amount computed by multiplying the hundredweight of milk received from such producers by the applicable uniform price adjusted by the butterfat differential provided for in § 916.81 and the location differential provided for in § 916.82.

§ 916.85 *Payments out of the producer-settlement funds.* On or before the 14th day after the end of each delivery period, the market administrator shall pay to each handler the amount, if any, by which the utilization value of the respective grade of milk received from producers by such handler during the delivery period as computed pursuant to § 916.70 is less than an amount computed by multiplying the hundredweight of milk received from such producers by the applicable uniform price adjusted by the butterfat differential provided for in § 916.81 and the location differential provided for in § 916.82: *Provided*, That if the balance in such producer-settlement fund is insufficient to make all payments with respect to such grade of milk pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 916.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 916.87 *Marketing service*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 916.80 shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from, and to provide market information to, such producers. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers who are members of a cooperative association, or who have given written authorization for the rendering of marketing services and the taking of deductions therefor by a cooperative association, and for whom the Secretary determines such association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions

specified in paragraph (a) of this section, such deductions as are authorized by such producers and on or before the 15th day after the end of such delivery period shall pay over such deductions to the cooperative association rendering such service.

§ 916.88 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 15th day after the end of the delivery period, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts at his pool plant within the delivery period of milk from producers, including such handler's own production: *Provided*, That each cooperative association shall pay such pro rata expense on only that milk of producers for which it is a handler.

§ 916.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of times, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 916.90 *Effective time.* The provisions hereof or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 916.91.

§ 916.91 *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 916.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 916.93 *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 916.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 916.101 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 27th day of October 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 50-9672; Filed, Oct. 31, 1950; 8:53 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Parts 24, 26, 27, 51]

ANNUAL EXPERIENCE REPORTS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments of Parts 24, 26, 27, and 51 in substance as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received by December 5, 1950, will be considered by the Board before taking further action on the proposed rules. Copies of such communications will be available after December 8, 1950, for perusal by interested persons at the Docket Section of the Board, Room 5412, Commerce Building, Washington, D. C.

Currently effective Parts 24, 26, 27, and 51 require holders of aircraft mechanic, air-traffic control-tower operator, aircraft dispatcher, and ground instructor certificates to transmit to the Administrator, annually, during the month of January, a report for the preceding 12-month period, setting forth the amount and type of their aeronautical experience and such other pertinent data as the Administrator may require. The proposed amendments would delete this requirement, and in the future no report would be required of those individuals.

This Bureau has been advised by the Administrator of Civil Aeronautics that this report no longer serves the purpose for which it was originally intended and that the Administrator can obtain the information furnished by these reports by contacting the individuals should the necessity therefor arise. He therefore recommends that the Board remove this reporting requirement. In this connection, it should be noted that revised Part 25, recently adopted by the Board, does not require the filing of an annual experience report by parachute riggers. The reporting requirement was omitted from Part 25 for the same reasons as presented in substantiation of this proposal.

Accordingly, it is proposed to delete the provisions of §§ 24.45, 26.37, 27.15, and 51.6 of the Civil Air Regulations.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Sec. 205 (a), 52 Stat. 984, 49 U. S. C. 425 (a). Interpret or apply secs. 601-610, 52 Stat. 1007-1012, 62 Stat. 1216, 49 U. S. C. 551-560, act of July 1, 1948)

Dated October 26, 1950, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN, *Director.*

[F. R. Doc. 50-9637; Filed, Oct. 31, 1950; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 3]

[Docket Nos. 8736, 8975, 8976, 9175]

TELEVISION BROADCAST SERVICE

ORDER GRANTING PETITION

In the matters of amendment of § 3.606 of the Commission's rules and regulations, Docket Nos. 8736, 8975, amendment to the Commission's rules, regulations and engineering standards concerning the television broadcast service, Docket No. 9175, utilization of frequencies in the Band 470 to 890 mc. for television broadcasting, Docket No. 8976.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1950;

The Commission having under consideration a petition filed on October 9, 1950, by Atlanta Newspapers, Inc., requesting (1) that the comment filed late herein on April 7, 1950, by The Constitution Publishing Company entitled "Endorsement of Counter-Proposal" be accepted for filing by the Commission; (2) that petitioner, as assignee of The Constitution Publishing Company, be substituted as the party in said comment; and (3) that petitioner be permitted to testify with respect to the general issues now being considered by the Commission in the hearing herein which commenced on October 16, 1950; and

It appearing that good and sufficient reasons have been advanced for petitioner's delay in seeking to intervene in the television hearing now in progress, and that its proposed testimony is pertinent to the general issues presently being considered herein by the Commission;

It is ordered, That the above petition is granted and Atlanta Newspapers, Inc., is listed as a party in the hearing which commenced on October 16, 1950, with respect to the general issues herein.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 50-9661; Filed, Oct. 31, 1950; 8:51 a. m.]

FEDERAL SECURITY AGENCY

Food and Drug Administration

[21 CFR, Part 20]

[Docket No. FDC-34 (a)]

ICE CREAM, FROZEN CUSTARD, SHERBET, WATER ICES, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

NOTICE OF POSTPONEMENT OF HEARING

In the matter of fixing and establishing definitions and standards of identity for ice cream, frozen custard, sherbet, water ices, and related foods:

Notice is hereby given that pursuant to an application made by International Association of Ice Cream Manufacturers, an interested person, the hearing in the above-entitled matter for the purpose of taking additional evidence for use in the formulation of definitions and standards of identity for ice cream, frozen custard, sherbet, water ices, and related foods, heretofore announced in the FEDERAL REGISTER (15 F. R. 5112) to commence on November 13, 1950, is postponed to 10:00 o'clock in the morning of January 8, 1951, in room 5140, Federal Security Building, Fourth Street and Independence Avenue SW., Washington, D. C.

Dated: October 26, 1950.

[SEAL] A. J. ALTMEYER, *Acting Administrator.*

[F. R. Doc. 50-9624; Filed, Oct. 31, 1950; 8:45 a. m.]

NOTICES

FEDERAL POWER COMMISSION

[Docket No. G-1518]

TRANSCONTINENTAL GAS PIPE LINE CORP.

CORRECTION NOTICE

OCTOBER 27, 1950.

The Notice of Application dated October 20, 1950, in the above-designated matter (published in the FEDERAL REGISTER on October 24, 1950, 15 F. R. 7131), should be corrected as follows:

The date of October 29, 1950, appearing on line 4 of the first paragraph should read October 20, 1950.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-9633; Filed, Oct. 31, 1950; 8:46 a. m.]

[Docket No. E-6316]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF ORDERS

OCTOBER 27, 1950.

Notice is hereby given that, on October 25, 1950, the Federal Power Commission issued its orders entered October 24, 1950, supplementing orders of October 13, 1950, published in the FEDERAL REGISTER on October 21, 1950 (15 F. R. 7060), authorizing issuance of bonds and debentures in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-9634; Filed, Oct. 31, 1950; 8:47 a. m.]

[Docket No. G-1308]

SOUTHERN NATURAL GAS CO.

NOTICE OF ORDER

OCTOBER 27, 1950.

Notice is hereby given that, on October 25, 1950, the Federal Power Commission issued its order entered October 24, 1950, amending order of May 18, 1950, published in the FEDERAL REGISTER on May 27, 1950 (15 F. R. 3296), issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-9635; Filed, Oct. 31, 1950; 8:47 a. m.]

[Docket Nos. G-1435, G-1463]

SOUTHERN NATURAL GAS CO.

NOTICE OF CONTINUANCE OF HEARING

OCTOBER 26, 1950.

Notice is hereby given that the hearing in the above-designated matter now scheduled for November 6, 1950, be and it is hereby continued to November 8, 1950, at 10:00 a. m., in the Commission's Hearing Room, at 1800 Pennsylvania Avenue NW., Washington, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-9636; Filed, Oct. 31, 1950; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket 3041 et al.]

SEABOARD & WESTERN AIRLINES, INC.; TRANSOCEAN AIR LINES, INC.; U. S.-EUROPE-MIDDLE EAST CARGO SERVICE CASE

NOTICE OF ORAL ARGUMENT

In the matter of the applications of Seaboard & Western Airlines, Inc. and Transocean Air Lines, Inc., under section 401 of the Civil Aeronautics Act of 1938, as amended, and such other sections as may be applicable, for certificates of public convenience and necessity authorizing the transportation of property in air transportation between areas and/or points in the continental United States and areas and/or points in Europe and the Middle East known as the U. S.-Europe-Middle East Cargo Service Case.

Notice is hereby ~ven, pursuant to the provisions of the .l Aeronautics Act

of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on November 13, 1950, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Fourteenth Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., October 26, 1950.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-9639; Filed, Oct. 31, 1950; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25526]

PETROLEUM FROM CHAN, OKLA., TO INTERSTATE POINTS

APPLICATION FOR RELIEF

OCTOBER 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to the tariffs named below.

Commodities involved: Petroleum and its products, carloads.

From: Chan, Okla.

To: Points in Illinois, Official, Southern, Southwestern, and Western Trunk Line territories.

Grounds for relief: Competition with rail carriers, circuitous routes and to maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh's tariffs, I. C. C. Nos. 3585, 3821, 3802, 3825, 3651, 3724, 3723 and 3494, Supplements 431, 58, 73, 83, 239, 123, 133 and 202, respectively.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-9627; Filed, Oct. 31, 1950; 8:46 a. m.]

[4th Sec. Application 25527]

COAL FROM LAKE SUPERIOR DOCKS TO MINNESOTA

APPLICATION FOR RELIEF

OCTOBER 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for and on behalf of carriers parties to the tariffs named on attached sheet.

Commodities involved: Anthracite and bituminous coal, carloads.

From: Lake Superior docks in Wisconsin.

To: Points in Minnesota.

Grounds for relief: Market competition and port competition.

Schedules filed containing proposed rates:

Issuing line	I. C. C. Tariff No.	Supplement No.
CMStP&P RR	B-7186	55
CMStP&P RR	B-7218	59
CMStP&P RR	B-7287	120
CStPM&O Ry	4849	60
GN Ry	A-7889	67
GN Ry	A-7891	59
MStP&SSM RR	7035	48
MStP&SSM RR	7063	39
NP Ry	9540	57

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-9628; Filed, Oct. 31, 1950; 8:46 a. m.]

[4th Sec. Application 25528]

MAGAZINES FROM CHICAGO, ILL., TO KANSAS CITY, MO.-KANS.

APPLICATION FOR RELIEF

OCTOBER 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. A-3733.

Commodities involved: Magazines, carloads.

From: Chicago, Ill.

To: Kansas City, Mo.-Kans.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: L. E. Kipp's tariff I. C. C. No. A-3733, Supplement 30.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-9629; Filed, Oct. 31, 1950; 8:46 a. m.]

[4th Sec. Application 25529]

MERCHANDISE FROM CHICAGO, ILL., TO THE SOUTH

APPLICATION FOR RELIEF

OCTOBER 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 639.

Commodities involved: Merchandise, mixed carloads.

From: Chicago, Ill.

To: Charlotte, N. C, and Greenville, S. C.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: R. G. Raasch's tariff I. C. C. No. 639, Supplement 26.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expira-

tion of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-9630; Filed, Oct. 31, 1950; 8:46 a. m.]

[4th Sec. Application 25530]

WOODPULP FROM NATCHEZ, MISS., TO OLD HICKORY, TENN.

APPLICATION FOR RELIEF

OCTOBER 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1051, pursuant to fourth-section order No. 16101.

Commodities involved: Woodpulp, carloads.

From: Natchez, Miss.

To: Old Hickory, Tenn.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-9631; Filed, Oct. 31, 1950; 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

BAHAMAS, CANADA, CUBA, DOMINICAN REPUBLIC, HAITI, AND MEXICO BROADCASTING STATIONS

LIST OF CORRECTIONS OF ASSIGNMENTS

SEPTEMBER 28, 1950.

Corrections to official list for information setting forth assignments of Standard Broadcast Stations of Bahamas, Canada, Cuba, Dominican Republic, Haiti, and Mexico, dated June 12, 1950.

Call letters	Location	Power	Radiation (in mv/m unattenuated at 1 mile for 1 kw)	Time designation	Class	Probable date to commence operation
CKPR	Fort William, Ontario, 89°15'16" West—48°24'33" North.	580 kilocycles, 1 kw	180	U	III-A	
VOCM	St. John's, Newfoundland, 52°42'54" West—47°33'55" North.	590 kilocycles, 1 kw		U	III-A	
CFCH	North Bay, Ontario, 79°21'53" West—46°15'49" North.	600 kilocycles, 1 kw	175, DA-1	U	III-B	
CJAT	Trail, British Columbia, 117°44'19" West—49°06'48" North.	610 kilocycles, 1 kw	185	U	III-B	
CKTB	St. Catherines, Ontario, 79°10'08" West — 43°02'11" North.	620 kilocycles, 1 kw	DA-1	U	III-B	
CKRC	Winnipeg, Manitoba, 97°08'07" West—49°46'00" North.	630 kilocycles, 5 kw	193, DA-N	U	III-A	
CFCY	Charlottetown, Prince Edward Island, 63°11'40" West—46°14'51" North.	630 kilocycles, 5 kw	180, DA-N	U	III-A	
CBN	St. John's, Newfoundland, 52°47'52" West — 47°30'16" North.	640 kilocycles, 10 kw.		U	I-B	
CHFA	Edmonton, Alberta, 113°26'44" West—53°27'14" North.	680 kilocycles, 5 kw	DA-1	U	(Special) II	
VOWR	St. John's, Newfoundland, 52°43'30" West — 47°36'56" North.	700 kilocycles, 500 w	[1] S. H.		II	
CKVM	Ville Marie, Quebec, 79°27'10" West—47°18'23" North.	710 kilocycles, 1 kw	DA-N	U	II	
CBY	Corner Brook, Newfoundland, 57°56'40" West—48°57'12" North.	790 kilocycles, 1 kw		U	III-A	
CKOK	Penticton, British Columbia, 119°34'33" West—49°27'45" North.	800 kilocycles, 500 w: 1 kw—LS.		U	II	Feb. 1, 1951
CKLW	Windsor, Ontario, 83°00'05" West—42°03'18" North.	800 kilocycles, 50 kw	DA-2	U	II	
CKBI	Prince Albert, Saskatchewan, 105°45'17" West—53°06'18" North.	900 kilocycles, 5 kw	DA-2	U	II	
CKNB	Cambellton, New Brunswick, 66°35'09" West—48°00'54" North.	950 kilocycles, 1 kw	DA-1	U	III-B	
VOCM	St. John's, Newfoundland, (See assignment on 590kc) 52°42'54" West—47°33'55" North.	1000 kilocycles, 250 w		U	II	
CKRD	Red Deer, Alberta 113°48'34" West—52°15'14" North.	1230 kilocycles, 250 w	190	U	IV	
CHWK	Chilliwack, British Columbia, 121°55'00" West—49°10'30" North.	1230 kilocycles, 250 w	125	U	IV	
VOAR	St. John's, Newfoundland, 52°43'26" West—47°33'52" North.	1230 kilocycles 100 w		([2])	IV	
CKBB	Barrie, Ontario, 79°42'28" West—44°22'22" North.	1230 kilocycles, 250 w	176	U	IV	
CKLD	Thetford Mines, Quebec, 71°17'38" West—46°04'58" North.	1230 kilocycles, 250 w	185	U	IV	
	Dawson City, Yukon Territory—delete this assignment. See assignment of CFYT on 1400 kc.					
CKTS	Sherbrooke, Quebec, 71°52'08" West—45°24'51" North.	1240 kilocycles, 250 w	165	U	IV	
CKSB	St. Boniface, Manitoba, 97°03'36" West—49°51'49" North.	1250 kilocycles, 1 kw	DA-1	U	III-B	
CJSO	Sorel, Quebec, 73°10'06" West—45°59'55" North.	1320 kilocycles, 1 kw	DA-N	U	III-B	
CKDA	Victoria, British Columbia, 123°20'31" West—48°27'27" North.	1340 kilocycles, 250 w	185	U	IV	
CFGB	Goose Bay, Labrador, 60°15'28" West—53°10'56" North.	1340 kilocycles, 250 w		U	IV	
CJOB	Winnipeg, Manitoba, 97°07'02" West—49°53'54" North.	1340 kilocycles, 250 w	150	U	IV	
CKMR	New Castle, New Brunswick, 65°33'01" West — 47°00'32" North.	1340 kilocycles, 250 w	190	U	IV	
CJNT	Quebec, Quebec, 71°15'46" West—46°48'31" North.	1340 kilocycles, 250 w.	190	U	IV	
CHRL	Roberval, Quebec, 72°14'45" West—48°30'13" North.	1340 kilocycles, 250 w	190	U	IV	
CBT	Grand Falls, Newfoundland, 55°39'00" West — 48°56'14" North.	1350 kilocycles, 1 kw		U	III-A	
XETK	Mazatlan, Sinaloa, 106°25'13" West—23°13'01" North.	1390 kilocycles, 500 w: 1 kw—LS.		U	III-B	
CBG	Gander, Newfoundland, 54°33'31" West — 48°58'19" North.	1450 kilocycles, 250 w.		U	IV	
CFAB	Windsor, Nova Scotia, 64°09'45" West — 44°59'52" North.	1450 kilocycles, 250 w	150	U	IV	

[1] Sundays only.
[2] 5 hours per week.

Call letters	Location	Power	Radiation (in mv/m unattenuated at 1 mile for 1 kw)	Time designation	Class	Probable date to commence operation
CKCR	Kitchener, Ontario, 80°28'19" West—43°28'03" North.	1490 kilocycles, 250 w	130	U	IV	
CHUB	Nanaimo, British Columbia, 123°58'11" West—49°10'17" North.	1570 kilocycles, 250 w	180	U	II	

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9658; Filed, Oct. 31, 1950; 8:50 a. m.]

CLASS B FM BROADCAST STATIONS

ALLOCATION OF CHANNELS IN FLORIDA

In the matter of amendment of revised tentative allocation plan for Class B FM broadcast stations to change channel allocations to Panama City and Pensacola, Fla.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1950:

The Commission having under consideration an amendment to its Revised Tentative Allocation Plan for Class B FM Broadcast Stations to change the channel allocations to Panama City and Pensacola, Fla., as follows:

	Channels	
	Delete	Add
Pensacola, Fla.	Channel No. 255	Channel No. 283.
Panama City, Fla.	Channel No. 283	Channel No. 255.

and

It appearing, that there is now pending before the Commission an application for a Class B FM station at Panama City, Fla.; that there are no other applications pending for Class B FM facilities at Panama City, Fla.; that there are now allocated to the Panama City, Fla., area two channels (No. 283 and 299); that Channel No. 255 requested by applicant, is now allocated to Pensacola, Fla.; that said channel may be reassigned to Panama City, Fla., in lieu of Channel No. 283 which may be assigned to Pensacola, Fla.; that operation of the proposed station on Channel No. 255 at Panama City, Fla., would not cause objectionable interference with any station, existing, proposed or contemplated by present allocations; that in addition to Channel No. 255 there is at least one other channel (No. 299) which is presently allocated to Panama City, which may be made available to other applicants at that place; that the adoption of the proposed amendment will not increase or decrease the number of channels allocated to any other city, and will not require a change in the channel assignment of any existing FM authorization and that no existing requirements of the Commission will be affected by said amendment; and

It further appearing that the nature of the proposed amendment is such as to render unnecessary the public notice and procedure set forth in section 4 (a) of the Administrative Procedure Act; and that for the same reasons this order may be made effective immediately in lieu of the requirements of Section 4 (c) of said act; and

It further appearing that authority for the adoption of said amendment is contained in sections 303 (c), (d) (f), and (r) and 307 (b) of the Communications Act of 1934, as amended;

It is ordered, That, effective immediately, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is amended so that Channel No. 255 is allocated to Panama City, Fla., in lieu of Channel No. 283, and Channel No. 283 is allocated to Pensacola, Fla., in lieu of Channel No. 255.

Released: October 25, 1950.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9660; Filed, Oct. 31, 1950; 8:51 a. m.]

[Designation Order 51]

DESIGNATION OF MOTIONS COMMISSIONER FOR NOVEMBER 1950

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1950:

It is ordered, Pursuant to section 0.111 of the Statement of Delegations of Authority, that George E. Sterling, Commissioner, is hereby designated as Motions Commissioner for the month of November 1950.

It is further ordered, That in the event said Motions Commissioner is unable to act during any part of said period the Chairman or Acting Chairman will designate a substitute Motions Commissioner.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9659; Filed, Oct. 31, 1950; 8:50 a. m.]

[Docket No. 7760]

CHESAPEAKE BROADCASTING CO., INC.

ORDER DENYING PETITION AND SCHEDULING HEARING

In re application of Chesapeake Broadcasting Company, Inc., Bradbury Heights, Maryland, for a construction permit. Docket No. 7760, File No. BP-4698.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 23d day of October 1950;

The Commission having under consideration a petition filed June 26, 1950 by Chesapeake Broadcasting Company, Inc., requesting reconsideration and grant without hearing of its above-entitled application for a construction permit for a new standard broadcast station to operate on the frequency 1540 kc., with power of 1 kw., daytime only, at Bradbury Heights, Maryland; and

It appearing, that the above entitled application was designated for hearing on April 13, 1950, and that said hearing has been continued indefinitely pending consideration of the instant petition; and

It further appearing that, upon consideration of the information contained in the application and the said petition, the proposed operation may not comply with the Commission's Standards of Good Engineering Practice Concerning Standard Broadcast Stations, particularly with regard to the coverage to be provided to the city of Washington, D. C., and the Washington, D. C., Metropolitan District, and that for these reasons among others the Commission is unable to conclude that a grant of the above-entitled application would serve public interest, convenience and necessity;

It is ordered, That the said petition, filed June 26, 1950, by Chesapeake Broadcasting Company, Inc., is denied;

It is further ordered, That the hearing in the above-entitled proceeding is scheduled to commence at 10 a. m., on the 29th day of November 1950, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9657; Filed, Oct. 31, 1950; 8:50 a. m.]

[Docket No. 9303]

SOUTHERN RADIO & EQUIPMENT CO. (WOBS)

ORDER DENYING PETITION AND SCHEDULING HEARING

In re application of Southern Radio and Equipment Company (WOBS), Jacksonville, Florida, Docket No. 9303, File No. BMP-3699, for modification of construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 23d day of October 1950;

The Commission having under consideration a petition and supplements thereto filed by Southern Radio and Equipment Company for reconsideration and grant without hearing of its above-entitled application for modification of construction permit File Number BP-6268, as modified (which authorized a new standard broadcast station), insofar as it requests to change hours of operation of Station WOBS, Jacksonville, Florida from daytime only to unlimited time, to install a directional antenna for day and night use, and to change transmitter location:

It appearing, that the above-entitled application was dismissed on April 29, 1949, insofar as it requests to specify studio location and for extension of commencement and completion dates for the construction authorized under application File Number BP-6268 and was designated for hearing insofar as it requests to change hours of operation and to install a directional antenna for day and night use, for the reason, among others, that the proposed operation did not meet the requirements of the Commission's rules and standards with particular regard to the areas and population to receive satisfactory service; and

It further appearing that the petition of applicant to amend to change transmitter site and directional antenna pattern and to show changes in financial data was granted on July 21, 1950; and

It further appearing that on the basis of measurements presently on file with the Commission the conductivities employed by the applicant in computing the nighttime service may not accurately reflect the coverage of the city of Jacksonville, Florida and the metropolitan district and that petitioner has submitted no measurements or other basis to support the values of conductivities used; and

It further appearing that on the basis of the information contained in the above-entitled application and the said petition and supplements thereto, the Commission is unable to make a determination of the matters in issue and accordingly cannot determine whether a grant of the application would be in the public interest;

It is ordered, That the said petition is denied, and that hearing on the above-entitled application is scheduled to commence at 10:00 a. m. on November 17, 1950, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9655; Filed, Oct. 31, 1950; 8:50 a. m.]

[Docket No. 9390]

IDAHO RADIO CORP. (KID)

ORDER CONTINUING HEARING

In re application of Idaho Radio Corporation (KID), Idaho Falls, Idaho, Docket No. 9390, File No. BMP-3308, for construction permit.

The Commission having under consideration a petition filed October 23, 1950 by Idaho Radio Corporation (KID), Idaho Falls, Idaho, requesting a continuance of the above-entitled proceeding presently scheduled for October 30, 1950, for fifteen (15) days or the earliest available date thereafter when the Hearing Examiner's schedule will permit; and

It appearing, that all parties to the proceeding have consented to a grant of this petition and to a waiver of § 1.745 of the Commission's rules and regulations so as to permit early consideration of this petition; and that good cause has been shown in the petition for a grant thereof;

It is ordered, This 25th day of October 1950, that the petition is granted; and the hearing in the above-entitled matter is hereby continued to 10:00 o'clock a.m., Monday, December 4, 1950, in Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9645; Filed, Oct. 31, 1950; 8:47 a. m.]

[Docket Nos. 9566, 9626]

WINTER GARDEN BROADCASTING CO. AND COMMUNITY BROADCASTING CO. (KUNO)

ORDER AMENDING ISSUES AND SCHEDULING HEARING

In re applications of John Mayberry tr/as Winter Garden Broadcasting Company, Crystal City, Texas, Docket No. 9566, File No. BP-7255, for construction permits; Leslie C. Smith, B. G. Moffett, and John H. Mayberry, a partnership d/b as community Broadcasting Company (KUNO), Corpus Christi, Texas, Docket No. 9626, File No. BMP-5034, for modification of construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1950;

The Commission having under consideration petitions filed on July 12, 1950, requesting reconsideration and grant without hearing of the above-entitled applications of John H. Mayberry tr/as Winter Garden Broadcasting Company for a permit to construct a new standard broadcast station to operate on frequency 1400 kilocycles, with 250 watts power, unlimited time at Crystal City, Texas and of Leslie C. Smith, B. G. Moffett, and John H. Mayberry d/b as Community Broadcasting Company for modification of construction permit to increase the power of Station KUNO, Corpus Christi, Texas from 100 watts to 250 watts;

It appearing that the applications of Henry Lee Taylor and of John H. Mayberry tr/as Winter Garden Broadcasting Company were designated for hearing in a consolidated proceeding by Commission order of January 18, 1950, and the above-entitled application of Community Broadcasting Company was designated for hearing in this consolidated proceeding by Commission order of April 13, 1950; and

It further appearing that the petition of Henry Lee Taylor requesting dismissal without prejudice of his said application was granted on July 7, 1950; and

It further appearing that the above-entitled applications of Winter Garden Broadcasting Company and of Community Broadcasting Company may involve objectionable interference each with the other; that the application of Winter Garden Broadcasting Company may involve objectionable interference with Station XEAS, Nuevo Laredo, Mexico; that the application of Community Broadcasting Company may involve objectionable interference with Station KNAL, Victoria, Texas; and that the operation proposed in the application of Community Broadcasting Company may involve overlap with the service area of Station KBKI, Alice, Texas, in contravention of § 3.35 of the Commission's rules; and

It further appearing that the said petitions are confined solely to setting forth the extent of the mutual interference involved between the said applications of Winter Garden Broadcasting Company and Community Broadcasting Company and a statement that the licensee of Station KBKI at some future date will file an application for consent to assignment of license under which John H. Newberry will dispose of his interest in Station KBKI; and

It further appearing that on the basis of the information contained in the said petitions and in the above-entitled applications of Winter Garden Broadcasting Company and of Community Broadcasting Company the Commission is unable to make a determination of the matters in issue and accordingly cannot determine whether a grant of either or both of the said applications would be in the public interest; and

It further appearing that the order of April 13, 1950, designating the application of Community Broadcasting Company for hearing in the said consolidated proceeding contained as Issue 6 "To determine whether the operation of Station KUNO as proposed would involve objectionable interference with Station XEAM, Matamoras, Mexico, or with any other existing foreign broadcast station * * *" and that Station XEAM was deleted on April 3, 1950;

It is ordered, That the said petitions are denied; and

It is further ordered, That on the Commission's own motion the order of April 13, 1950, designating the application of Community Broadcasting Company for hearing is amended to delete Issue 6 therefrom and is further amended to make Louis Kreuger, Ross Bohannon, R. E. Norton, Rubin Frels and Truman L. Belcher d/b as Victoria Broadcasting Company, licensee of Station KNAL, Victoria, Texas, a party to the proceeding; and

It is further ordered, That the hearing on the said applications of Winter Garden Broadcasting Company and of Community Broadcasting Company is scheduled to commence at 10:00 a. m., on November 16, 1950, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9656; Filed, Oct. 31, 1950; 8:50 a. m.]

[Docket No. 9659]

MELBOURNE BROADCASTING CORP. (WMMB)

ORDER CHANGING PLACE AND ADVANCING DATE OF HEARING

In re application of Melbourne Broadcasting Corporation (WMMB), Melbourne, Florida, Docket No. 9659, File No. BP-7217, for construction permit.

The Commission having under consideration a petition filed October 10, 1950, by Melbourne Broadcasting Corporation (WMMB), Melbourne, Florida, requesting that the place of hearing in the above-entitled proceeding presently scheduled for December 13, 1950, at Washington, D. C., be changed to Melbourne, Florida, and that the hearing be advanced one week; and

It appearing that in view of the nature of the issues in this proceeding, it would be to the best interests of the Commission and the petitioner to hold this hearing one week earlier in the town in which the records of Station WMMB are located;

It is ordered, This 20th day of October 1950, that the petition is granted; and that the place of hearing in the above-entitled proceeding is changed to Melbourne, Florida, and the date advanced from December 13, 1950, to December 6, 1950.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9648; Filed, Oct. 31, 1950; 8:48 a. m.]

[Docket Nos. 9695, 9823]

ROBERT HECKSHER AND SARASOTA BROADCASTING CO. (WKXY)

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Robert Hecksher, Fort Myers, Florida, Docket No. 9695, File No. BP-7582; Antonio G. Fernandez, Charles J. Fernandez, William P. Carey and Gonzalo Fernandez, d/b as Sarasota Broadcasting Company (WKXY), Sarasota, Florida, Docket No. 9823, File No. BP-7861, for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 25th day of October 1950;

The Commission having under consideration (1) the above-entitled application of the Sarasota Broadcasting Company to change facilities from 1540 kilocycles, with 1 kilowatt power, daytime only, to 1400 kilocycles, with 250 watts power, unlimited time at Station WKXY, Sarasota, Florida; and (2) a petition of the Sarasota Broadcasting Company, filed October 11, 1950, requesting that its above-entitled application be designated for hearing in a consolidated proceeding with the above-entitled application of Robert Hecksher; and

It appearing that the above-entitled application of Robert Hecksher for a permit to construct a new standard broadcast station on the frequency 1400 kilocycles, with 250 watts power, unlimited time, at Fort Myers, Florida, was designated for hearing on June 1, 1950, on engineering issues only, the hearing being presently scheduled for October 31, 1950;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above-entitled application of the Sarasota Broadcasting Company is designated for hearing in a consolidated proceeding with the application of Robert Hecksher commencing at 10:00 a. m., on October 31, 1950 at Washington, D. C., upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the individual applicant and the technical, financial, and other qualifications of the applicant partnership and its partners to operate the proposed station and Station WKXY as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and Station WKXY as proposed, and the character of other broadcast service available to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station at Fort Myers, Florida, would involve objectionable interference with Station WFTL, Fort Lauderdale, Florida; and to determine whether the operation of Station WKXY as proposed would involve objectionable interference with Station WTSP, St. Petersburg, Florida; or whether either or both of these two applications would involve objectionable interference with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station or Station WKXY as proposed would involve objectionable interference, each with the other, or with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station or Station WKXY as proposed would be in compliance with the Commission's rules and standards of good engineering practice concerning standard broadcast stations, with particular reference to whether the 2 mv/m contour of Station WKXY as proposed would overlap the 25 mv/m contour of Station WTSP, St. Petersburg, Florida; or whether the 25 mv/m contour of Station WKXY as proposed would overlap the 2 mv/m contour of Station WTSP.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

It is further ordered, That the order of the Commission dated June 1, 1950, designating the above-entitled application of Robert Hecksher for hearing is amended to include the above-entitled application of the Sarasota Broadcasting Company and to revise the issues therein to include and conform with all issues specified herein.

It is further ordered, That Pinellas Broadcasting Company, licensee of Station WTSP, St. Petersburg, Florida, is made a party to this proceeding with respect to the Sarasota Broadcasting Company (WKXY) application only.

It is further ordered, That the petition of Sarasota Broadcasting Company (WKXY) to designate the two above-entitled applications for hearing in a consolidated proceeding is granted.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9651; Filed, Oct. 31, 1950; 8:48 a. m.]

[Docket No. 9699]

CHAMPION CITY BROADCASTING CO. (WJEL)

ORDER CONTINUING HEARING

In re application of Champion City Broadcasting Company (WJEL), Springfield, Ohio, Docket No. 9699, File No. BP-6642, for construction permit.

The Commission having under consideration a motion filed on October 16, 1950, by Champion City Broadcasting Company, Springfield, Ohio, requesting that the hearing now scheduled for November 3, 1950, at Washington, D. C., on the above-entitled application, be continued for sixty days; and

It appearing that no opposition has been filed to the above motion by any of the parties to this proceeding;

It is ordered, This 24th day of October 1950, that the motion be, and it is hereby, granted; and that the hearing on the above-entitled application be, and it is hereby, continued to 10:00 a. m. Wednesday, January 10, 1951, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9650; Filed, Oct. 31, 1950; 8:48 a. m.]

[Docket Nos. 9752, 9753]

H. C. YOUNG AND SOUTHERN BROADCASTING CO., INC.

ORDER CONTINUING HEARING

In re applications of H. C. Young, Jr., Nashville, Tennessee, Docket No. 9752, File No. BP-7624; Southern Broadcasting Company, Inc., Nashville, Tennessee, Docket No. 9753, File No. BP-7732, for construction permits.

The Commission having under consideration a petition filed October 10, 1950, by Southern Broadcasting Company,

Inc., Nashville, Tennessee, requesting a continuance of the hearing presently scheduled for November 22, 1950, at Washington, D. C., in the above-entitled proceeding; and an opposition thereto filed on October 16, 1950, by H. C. Young, Jr.; and

It appearing that H. C. Young, Jr., is opposed to the length of the continuance requested; and that the parties have agreed upon a continuance of this matter to January 2, 1951;

It is ordered, This 20th day of October 1950, that the petition for continuance is granted; and that the hearing in the above-entitled proceeding is continued to 10:00 a. m., Wednesday, January 3, 1951, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9649; Filed, Oct. 31, 1950; 8:48 a. m.]

[Docket No. 9777]

VENTURA COUNTY RADIO CENTER, INC. (KSPA)

ORDER CONTINUING HEARING

In the matter of Ventura County Radio Center, Inc., Santa Paula, California (KSPA), Docket No. 9777, File No. BR-2231, for renewal of license.

The Commission having under consideration a petition filed October 19, 1950, by its General Counsel, requesting that the hearing in the above-entitled matter presently scheduled for November 27, 1950, at Santa Paula, California, be continued for an indefinite date;

It appearing, that the time within which objections to the requested continuance might have been filed has expired, and no objections thereto have been filed by KSPA, the only party to the proceeding; and that good and sufficient cause for said continuance has been shown in the petition;

It is ordered, this 25th day of October 1950, that the petition for indefinite continuance is hereby granted; and the hearing on the above-entitled matter now scheduled for November 27, 1950, at Santa Paula, California, is continued without date until further order.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9646; Filed, Oct. 31, 1950; 8:48 a. m.]

[Docket No. 9817]

PHILIP H. MORSE

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of Philip H. Morse, Plainfield, New Jersey, Docket No. 9817, suspension of amateur radio operator license.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1950;

It appearing that acting in accordance with the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, Philip H. Morse, 616 Sherman Avenue, Plainfield, New Jersey, filed with the Commission within the time provided therefor, an application requesting a hearing on the Commission's order of August 23, 1950, suspending for a period of one year his amateur radio operator license; and

It furthering appearing that under the provisions of section 303 (n) (2) of the Communications Act of 1934, as amended, the said licensee is entitled to a hearing in the matter, and that upon the filing of a timely written application therefor, the Commission's Order of Suspension is held in abeyance until the conclusion of proceedings in the said hearing:

It is ordered, That the matter of the suspension of the amateur radio operator license of Philip H. Morse is hereby designated for hearing before a Commission Examiner at 10:00 a. m., on November 30, 1950, at the offices of the Federal Communications Commission in Washington, D. C., upon the following issues:

1. To determine whether the licensee committed the violations of the Communications Act of 1934, as amended, and the Commission's rules set forth in the Commission's order of suspension.

2. If the licensee committed all or a portion of such violations, to determine whether the facts or circumstances in connection therewith would warrant any change in the terms of the Commission's order of suspension.

It is further ordered, That copy of this order be transmitted by registered mail, return receipt requested to Philip H. Morse, 616 Sherman Avenue, Plainfield, New Jersey.

Notice is hereby given that § 1.858 of the Commission's rules is applicable to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9653; Filed, Oct. 31, 1950; 8:51 a. m.]

[Docket No. 9819]

SERGEI VLADIMIR KIRPATOVSKY

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of Sergei Vladimir Kirpatovsky, Docket No. 9819, application for radiotelephone first class operator license.

At a session of the Federal Communications Commission held at its offices at Washington D. C. on the 23d day of October 1950;

The Commission having under consideration the application of Sergei Vladimir Kirpatovsky, 632 Northwest 108 Terrace, Miami, Florida, for a radiotelephone first class operator license; and

It appearing, that the Commission has heretofore suspended a radiotelephone first class operator license held by Kirpatovsky for the violation of the Commission's Rules; and

It further appearing, that on April 20, 1948, in the United States District Court for the Southern District of Florida, said Sergei Vladimir Kirpatovsky entered a plea of guilty to violation of Section 502 of the Communications Act of 1934, as amended, and was fined the sum of $500.00; and

It further appearing, that the commission is unable to determine from consideration of the application before it that a grant of a radiotelephone first class operator license to the said Sergei Vladimir Kirpatovsky would be in the public interest;

It is ordered, That pursuant to section 303 (1) of the Communications Act of 1934, as amended, the above-entitled application is hereby designated for hearing at a time and place to be specified by a subsequent order of the Commission on the following issues:

1. To determine the past operations of the applicant under previous licenses issued by the Commission to the applicant.

2. To determine the applicant's use of radio transmitting equipment since the suspension of a license previously issued to him by the Commission.

3. To determine in the light of evidence adduced under the issues in this proceeding whether it would be in the public interest to grant a radiotelephone first class operator license to the applicant.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9652; Filed, Oct. 31, 1950; 8:49 a. m.]

[Docket No. 9820]

EARL M. KEY (WKEY)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Earl M. Key (WKEY), Covington, Virginia, Docket No. 9820, File No. BP-7828, for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1950;

The Commission having under consideration the above-entitled application of Earl M. Key, licensee of Station WKEY, Covington, Virginia, for a construction permit to change transmitter location and make changes in antenna and ground system;

It appearing that the applicant is legally, technically, financially and otherwise qualified to operate Station WKEY as proposed, but that the application may involve interference with one or more existing stations and otherwise not comply with the Standards of Good Engineering Practice;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing commencing at 10:00 a. m. on January 5, 1951, at Washington, D. C., upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station, and the character of other broadcast service available to such areas and populations.

2. To determine whether the operation of the proposed station would increase the existing objectionable interference to Station WRAD, Radford, Virginia, or would involve objectionable interference with any other existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

3. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and standards of good engineering practice concerning standard broadcast stations.

It is further ordered, That Rollins Broadcasting, Inc., licensee of Station WRAD, Radford, Virginia, is made a party to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9647; Filed, Oct. 31, 1950; 8:48 a. m.]

[Docket No. 9821]

CHRISTIAN COUNTY BROADCASTING CO. AND MOYER BROADCASTING CO.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re applications of Christian County Broadcasting Company, Taylorville, Illinois, Docket No. 9821, File No. BP-7755, for construction permit to replace expired permit; Russell Armentrout and Roger L. Moyer d/b as Moyer Broadcasting Company, Taylorville, Illinois, File No. BP-7800, for construction permit.

1. On September 30, 1948, the Commission granted the Christian County Broadcasting Company an application for construction permit for a new standard broadcast station at Taylorville, Illinois, to operate on 1410 kc, with 1 kw power, daytime only, using a directional antenna (File No. BP-6354). Since that time the Christian County Broadcasting Company has received six extensions of completion date, the last of which was granted on May 2, 1950, and authorized an extension of completion date from April 15, 1950, to June 15, 1950 (File No. BMP-5091). The construction permit was allowed to expire and on July 19, 1950, the above-entitled application requesting a replacement of the expired permit was filed.[1]

2. On August 21, 1950, Russell Armentrout and Roger L. Moyer, a partnership d/b as Moyer Broadcasting Company, filed the above-entitled application seeking the same facilities as those specified by Christian County Broadcasting Company, and on September 7, 1950, Moyer Broadcasting Company filed a petition requesting the Commission to designate for hearing the application of the Christian County Broadcasting Company for replacement of its expired permit for standard broadcast facilities at Taylorville, Illinois. The petitioner contends that its application and the Christian County proposal are mutually exclusive; that the two applications should be considered together; and that a comparative proceeding is the only way in which the Commission may determine the merits of the two proposals. Accordingly, it requests that the Christian County application be designated for hearing and that the Moyer Broadcasting Company be made a party to the proceeding.

3. In the case of In re Bremer Broadcasting Corporation (File No. BMPH-261), 3 RR 1579, we held that there was no automatic forfeiture of a construction permit on the original termination date if the Commission granted an application for additional time to construct even though the application for extension was not filed until after the expiration date. We further held that an application for extension of time to complete construction was not an application for a construction permit under section 309 (a) of the Communications Act, and that, therefore, an application filed by another after the expiration date of the original construction permit was not entitled to comparative consideration under Ashbacker Radio Corporation v. F. C. C. 326 U. S. 327.

4. We adhere to our holding in the Bremer case. Therefore, Moyer Broadcasting Company is not entitled to a comparative hearing with the aforesaid application[2] of Christian County Broadcasting Company and its petition in so far as it seeks this procedure must be denied.

5. We pass now to the disposition of the application for replacement of construction permit—whether it should be granted, denied, or set for hearing. The applicant states that the original construction permit was allowed to expire by reason of the illness of the Vice President who was unable to supervise the details incident to the construction of the authorized facility; that installation of the ground system had been completed and the foundation for the transmitter building installed; that the equipment for the two-tower directive array would be completed by the builder in about three weeks; and that the studio equipment would be completed in about two weeks. We are of the opinion that there has been no lack of diligence such as would warrant a denial of the application. However, there is a further consideration to which we now advert.

6. The Christian County Broadcasting Company is an Illinois corporation, whose vice-president is L. W. Andrews. Mr. Andrews is also sole owner of L. W. Andrews, Inc., permittee of Station KFMA, Davenport, Iowa. Proceedings have been instituted looking to a revocation of that permit. Since the qualifications of Mr. Andrews to be a licensee are involved in that proceeding, we are not in a position at this time to grant the instant application. We propose, therefore, to designate it for hearing. We have already held that Moyer Broadcasting Company is not entitled to comparative consideration in such a hearing. Therefore, until such time as we take final action on the application for replacement of construction permit, we will retain the application of Moyer Broadcasting Company in the pending file.

7. In view of the foregoing, *It is ordered* This 23d day of October, 1950, that the above-entitled application of Christian County Broadcasting Company is designated for hearing, to commence at 10:00 a. m. on January 8, 1951, at Washington, D. C., upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders to construct and operate the proposed station with particular reference to the qualifications of L. W. Andrews to be an officer, director and stockholder in the applicant corporation in the light of the matters in issue in the proceedings of revocation of the construction permit for station KFMA, Davenport, Iowa (Docket No. 9709; File No. BP-6316).

2. To determine whether, in view of the evidence adduced under Issue No. 1, a grant of the above-entitled application of Christian County Broadcasting Company would be in the public interest.

It is further ordered, That the petition filed September 7, 1950, by Moyer Broadcasting Company is granted in so far as it asks that the above-entitled application of Christian County Broadcasting Company be set for hearing and is denied in all other respects; and *it is further ordered,* That the above-entitled application of Moyer Broadcasting Company is placed in the pending file.

Released: October 25, 1950.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-9654; Filed, Oct. 31, 1950; 8:50 a. m.]

[1] The application was executed July 3, 1950. The letter of transmittal to the Commission by applicant's attorney states that the application was received in his office July 5, 1950, but was mislaid.

[2] The fact that the request of Christian County Broadcasting Company was filed on Form 321, "Application for Construction Permit to Replace Expired Permit", whereas in the Bremer case the request was made on Form 701, "Application For Additional Time to Construct Radio Station", is immaterial, since both seek additional time in which to complete construction.

SECURITIES AND EXCHANGE COMMISSION

[File No. 71-10]

UNITED GAS CORP.

NOTICE OF FILING OF ORIGINAL COST STUDIES AND OF PROPOSALS FOR DISPOSITION OF ADJUSTMENTS RELATING TO GAS DISTRIBUTION PLANT

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C.,

on the 26th day of October A. D., 1950.

Notice is hereby given that United Gas Corporation ("United") has filed studies and amendments thereto relative to the original cost and reclassification of the company's gas distribution plant accounts as at December 31, 1941. The studies filed include proposals for the disposition of certain adjustments relating to the company's gas distribution plant accounts. United is a public utility subsidiary of Electric Bond and Share Company, a registered holding company. The studies, and amendments thereto, were filed pursuant to the Public Utility Holding Company Act of 1935 particularly sections 15 and 20 (b) thereof and Rule U-27 thereunder.

Notice is further given that any interested person may, not later than November 7, 1950, at 11:00 a. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law raised by said proposals intended to be controverted, or may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed as follows: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after November 7, 1950, the Commission may take such action as may be deemed appropriate with respect to the matters to which the filing herein relates.

All interested persons are referred to said studies which are on file in the offices of the Commission for a statement of the transactions therein proposed, which may be summarized as follows:

On August 29, 1946, United initially filed original cost and reclassification studies of the company's gas distribution plant accounts as of December 31, 1941. The studies were filed in accordance with United's interpretation of Plant Instruction 2-D of the Uniform System of Accounts recommended by the National Association of Railroad and Utilities Commissioners for gas utilities. The above-mentioned system of accounts is applicable to United by virtue of this Commission's Rule U-27, promulgated under the Public Utility Holding Company Act of 1935. The staff of the Commission made a field examination and filed its report in connection therewith. Copies of the staff's report were submitted to the company. United has amended its studies to give effect to the recommendations contained in the staff's report and now proposes to transfer $2,847,973.77 to Account 100.5, Gas Plant Acquisition Adjustments.

United proposes, beginning on the first day of the month following the date of the issuance of the Commission's order, to charge monthly to Account 537, Miscellaneous Amortization and to credit to Account 252, Reserve for Amortization of Gas Plant Acquisition Adjustments, such a proportionate equal monthly part of said amount of $2,847,973.77 as may be required in order that the accumulated total in Account 252, Reserve for Amortization of Gas Plant Acquisition Adjustments, shall equal $2,847,973.77 on December 31, 1962. United proposes that it may, at its option, accelerate the charges to Account 537, but that such acceleration shall not operate to reduce the fixed monthly charges and will have the sole effect of shortening the period necessary to provide the amount of $2,847,973.77 in Account 252. United further proposes that when the amount in Account 252 equals $2,847,973.77 the like amount in Account 100.5 shall be charged against said reserve.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 50-9525; Filed, Oct. 31, 1950; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 15255]

HENRIETTA E. GARRETT

In re: Estate of Henrietta E. Garrett, deceased. File No. D-28-1682; E. T. sec. Nos. 538 and 539.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the domiciliary personal representatives, heirs-at-law, next of kin, legatees, distributees and devisees, names unknown, of Johann Peter Christian Schaefer I, deceased, and their successors in interest, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. All right, title, interest and estate, both legal and equitable, of the persons identified in subparagraph 1 hereof in and to certain real property situated in Philadelphia County, Commonwealth of Pennsylvania, more particularly described in Exhibit A attached hereto and by reference made a part hereof, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

b. All right, title, interest and estate, both legal and equitable, of the persons identified in subparagraph 1 hereof in and to certain real property situated in Atlantic County, State of New Jersey, more particularly described in Exhibit B attached hereto and by reference made a part hereof, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property, and

c. All right, title and interest of the persons identified in subparagraph 1 hereof in and to any and all insurance policies which insure the property described in subparagraphs 2-a and 2-b hereof,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons identified in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON, *Assistant Attorney General, Director, Office of Alien Property.*

EXHIBIT A

Real property situated in Philadelphia County, Commonwealth of Pennsylvania, more particularly described as follows:

Parcel 1: Premises 404 South Ninth Street, Philadelphia, Pennsylvania, more particularly described as follows: All that certain Three story Brick Messuage or Tenement and Lot or Piece of Ground situate on the West side of Ninth Street at the distance of One hundred feet Northward from the North side of Lombard Street in the Seventh Ward of the City of Philadelphia. Containing in front or breadth on the said Ninth Street Twenty feet and extending in length or depth Westward of that width One hundred and eighty eight feet to Fothergill street. Bounded Northward by ground now or late of Andrew D. Cash, Southward by ground granted by Nathaniel Lewis Paleske to -------- Westward by said Fothergill street and Eastward by Ninth street aforesaid. Together with all and singular the Buildings and Improvements, Streets, Alleys, Passages, Ways, Waters, Water-Courses, Rights, Liberties, Privileges, Hereditaments and Appurtenances whatsoever thereunto belonging or in any wise appertaining, and the Reversions and Remainders, Rents, Issues and Profits thereof; and all the estate, right, title, interest, property, claim, and demand whatsoever of them the said Thomas Kennedy and Caroline L. his wife in law, equity, or otherwise howsoever, of, in, and to the same and every part thereof.

Parcel 2: Premises known as 402 South Ninth Street, Philadelphia, Pennsylvania, more particularly described as follows: All that certain three story brick Messuage or Tenement and Lot or Piece of Ground Situate on the West side of Ninth Street at the distance of one hundred and forty one feet Southward from the South side of Pine Street in the Seventh Ward of the City of Philadelphia Containing in front or breadth

on the said Ninth Street Twenty one feet and extending in length or depts Westward of that width one hundred and eighty eight feet to Fothergill Street Bounded Northward by ground now or late of Jesse Williamson, Westward by the said Fothergill Street, Southward by ground now or late of Henrietta E. Garrett and Eastward by Ninth Street aforesaid. Together with all and singular the Buildings and Improvements, Ways, Streets, Alleys, Passages, Waters, Water Courses, Rights, Liberties, Privileges, Hereditaments and Appurtenances whatsoever thereunto belonging or in any wise appertaining; and the Reversions and Remainders, Rents, Issues and Profits thereof; and all the Estate, Right, Title, Interest, Property, Claim and Demand whatsoever of her the said Ellen L. Taylor at law, in equity or otherwise howsoever of, in and to the same and every part thereof.

Parcel 3: Premises known as 133 South Thirteenth Street, Philadelphia, Pennsylvania, more particularly described as follows:

All that certain three story Brick messuage or tenement and lot or piece of ground thereunto belonging Situate on the East side of Thirteenth Street between Walnut and Sansom (formerly called George) Streets in the Eighth Ward of the said City of Philadelphia. Beginning at the distance of Ninety six feet Southward from the South line of the said Sansom (late George) Street and containing in front or breadth on the said Thirteenth Street Sixteen feet and in length or depth Eastward Ninety two feet to a four feet wide alley leading from the said Sansom (late George) Street Southward one hundred and twelve feet to a ten feet wide Court which extends Westwardly along the South line of the hereby granted lot into the said Thirteenth Street. Bounded on the North by ground now or formerly of French and Roberts, on the East by the said four feet wide alley, on the South by the said Court and on the West by Thirteenth Street aforesaid. Together with the free use and privilege of the said four feet wide alley and ten feet wide alley or Court respectively in common with the owners and occupiers of the other ground bounding thereon and of free Ingress, Egress and Regress into, out of, and along the same and of a water course therein at all times hereafter forever. Together with all and singular the Buildings, Improvements, Streets, Alleys, Passages, Ways, Waters, Water-Courses, Rights, Liberties, Privileges, Hereditaments and Appurtenances whatsoever thereunto belonging or in any wise appertaining, and the Reversions and Remainders, Rents, Issues and Profits thereof; and all the estate, right, title, interest, property, claim, and demand whatsoever of them the said Robert R. Taylor and Helen B. his wife in law, equity, or otherwise howsoever, of, in, and to the same and every part thereof.

EXHIBIT B

Real property situated in Atlantic County, State of New Jersey, premises known as Fifteenth South Connecticut Avenue, Atlantic City, New Jersey, more particularly described as follows: Beginning at the Southeast corner of Atlantic and Connecticut Avenues and running thence (1) in a Southerly direction along the line of Connecticut Avenue two hundred feet; thence (2) in an Easterly direction parallel with Atlantic Avenue, one hundred sixty-two feet and six inches to the Westerly line of a twenty-five feet wide street running between Massachusetts and Connecticut Avenues; thence (3) Northwardly along the Westerly line of said street fifty feet; thence (4) in a Westerly direction parallel with Atlantic Avenue eighty-six feet six inches; thence (5) in a Northerly direction parallel with Connecticut Avenue one hundred and fifty feet to the Southerly line of Atlantic Avenue; thence (6) Westwardly along said line of Atlantic Avenue seventy-six feet to the place of beginning.

[F. R. Doc. 50-9662; Filed, Oct. 31, 1950; 8:51 a. m.]

[Vesting Order 15269]

DEUTSCHE CARBORUNDUM WERKE G. M. B. H.

In re: Debt owing to Deutsche Carborundum Werke G. M. B. H. F-28-7715-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Deutsche Carborundum Werke G. M. B. H., the last known address of which is Dusseldorf, Germany, is a corporation, partnership, association or other business organization organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Dusseldorf, Germany and is a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Deutsche Carborundum Werke G. M. B. H., by The Carborundum Company, Niagara Falls, New York, in the amount of $945.63, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-9665; Filed, Oct. 31, 1950; 8:51 a. m.]

[Vesting Order 15271]

BARON ANDREAS R. F. KNOOP

In re: Bank account owned by Baron Andreas R. F. Knoop, also known as Baron Andreas Knoop and as Andreas R. F. Knoop. F-28-28040-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Baron Andreas R. F. Knoop, also known as Baron Andreas Knoop and as Andreas R. F. Knoop, on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Baron Andreas R. F. Knoop, also known as Baron Andreas Knoop and as Andreas R. F. Knoop, by The Chase National Bank of the City of New York, 18 Pine Street, New York, New York, arising out of a checking account, entitled Baron Andreas R. F. Knoop, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-9666; Filed, Oct. 31, 1950; 8:51 a. m.]

[Vesting Order 15265]

THEODORE WEICKER, SR., ET AL.

In re: Trust agreement dated April 21, 1932, between Theodore Weicker, Sr., grantor, and Theodore Weicker, Sr.,

Florence Palmer Weicker and Theodore Weicker, Jr., trustees, F/B/O Else Ulrich, the primary beneficiary, and others. File F-28-4554 D-1, E-1, and G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Else Ulrich and Thea Ulrich Schatke, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest, and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated April 21, 1932, by and between Theodore Weicker, Sr., grantor, and Theodore Weicker, Sr., Florence Palmer Weicker, and Theodore Weicker, Jr., trustees, for the benefit of Else Ulrich, the primary beneficiary, and others, presently being administered by Theodore Weicker, Jr., Lowell P. Weicker, and Frederick E. Weicker, as trustees, 745 Fifth Avenue, New York, New York,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-9663; Filed, Oct. 31, 1950; 8:51 a. m.]

[Vesting Order 15276]

KARL REINDL

In re: Debt owing to the personal representatives, heirs, next of kin, legatees and distributees of Karl Reindl, deceased. F-28-22585-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Karl Reindl, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation of Harris, Upham & Co., 14 Wall Street, New York 5, New York, in the amount of $338.85, as of October 2, 1950, appearing on the books of said Harris, Upham & Co., as a credit balance due the Estate of Karl Reindl, deceased, together with any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the personal representatives, heirs, next of kin, legatees and distributees of Karl Reindl, deceased, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Karl Reindl, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-9668; Filed, Oct. 31, 1950; 8:52 a. m.]

[Vesting Order 15278]

ROSA AND CURT SOLDAU

In re: Bank accounts owned by Rosa Soldau, also known as Rose Soldau and Curt Soldau. F-28-27737-C-1, F-28-27737-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Rosa Soldau, also known as Rose Soldau and Curt Soldau, each of whose last known address is Germany are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation of Central Savings Bank in the City of New York, 2100 Broadway, New York 23, New York, arising out of a Savings Account, account number 174,613, entitled Rosa Soldau in trust for Curt Soldau, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Rosa Soldau, also known as Rose Soldau and Curt Soldau, the aforesaid nationals of a designated enemy country (Germany);

3. That the property described as follows: That certain debt or other obligation owing to Rosa Soldau, also known as Rose Soldau, by Central Savings Bank in the City of New York, 2100 Broadway, New York 23, New York, arising out of a Savings Account account number 83,872 entitled Rose Soldau, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Rosa Soldau, also known as Rose Soldau, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 18, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-9669; Filed, Oct. 31, 1950; 8:52 a. m.]